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TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1937

No. 63

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, APPELLANTS

vs.

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF GEORGIA

FILED MAY 15, 1937

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A. [Clerk's Certificate to transcript omitted in printing.]

1 [Caption omitted.]

2 In United States District Court for the August Division of the Southern Judicial District of Georgia

In Equity No. 207

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD, PETITIONERS

v.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, DEFENDANTS

Petition

Filed March 3, 1934

To the Honorable, the Judges of Said District Court:

Your Petitioners, W. V. Griffin and H. W. Purvis, Receivers for Georgia & Florida Railroad, file this their petition against the United States of America and the Interstate Commerce Commission, hereinafter called the "Commission", to enjoin, set aside, annul, and suspend a certain order of the Commission made and entered the 10th day of May 1933, in a proceeding begun upon the petition of your petitioners and designated as "Railway Mail Pay, In the Matter of the Application of the Georgia & Florida Railroad Company for Increased Rates of Pay", being a part of No. 9200 on the formal docket of the Commission.

For their cause of action the petitioners respectfully state:

I

PARTIES

1. Your Petitioners, W. V. Griffin and H. W. Purvis, are the Receivers of Georgia & Florida Railroad, a corporation which was duly incorporated in the State of Georgia on October 4,
3 1926, and in the State of South Carolina on November 26, 1926, and they were appointed and qualified under order of the District Court of the United States for the Southern District of Georgia, made on the 19th day of October 1929, in an equitable cause entitled Virginia Iron, Coal & Coke Company v. Georgia, & Florida Railroad, Equity No. —.

2. The United States of America is made defendant in this suit pursuant to the Commerce Court Act (36 Stat. L. 539), approved June 18, 1910, and to the District Court Jurisdiction Act, being part

of the Deficiencies Appropriation Act (38 Stat. L. 219, U. S. C., Title 28, Sections 43–48), approved October 22, 1913.

3. The Commission is an administrative tribunal created by the Act to Regulate Commerce (24 Stat. L. 379), approved February 4, 1887, as amended (the Interstate Commerce Act), and is by the Act of July 28, 1916, Chapter 261, Section 5 (39 Stat. L. 412, 429, U. S. C., Title 39, Chapter 15, Section 542), specifically empowered and directed to fix and determine from time to time the fair and reasonable rates and compensation for the transportation of mail matter by railway common carriers.

II

JURISDICTION AND VENUE

4. Petitioner H. W. Purvis, one of the parties upon whose petition the order of the 10th day of May 1933, in cause No. 9200, was made which order is sought herein to be enjoined, set aside, suspended, and revoked, resides at Augusta, Ga., in the Augusta Division of the Southern District of Georgia, and he was appointed and qualified as one of the Receivers of Georgia & Florida Railroad under order of the District Court of said District, which is the Court of primary jurisdiction in the proceeding in which said Receivers were appointed. Suit is brought in the said District in accordance
4 with the provisions of the said Deficiencies Appropriation Act of October 22, 1913; and petitioners invoke the jurisdiction of this Court under the provisions of said Act, of Section 207 of the Judicial Code (U. S. C., Title 28, Section 41 (28), of the Interstate Commerce Act, of the Act of July 28, 1916, Chapter 261, Section 5 (39 Stat. L. 412, 425–431), and of the Constitution of the United States, and particularly Section 8 of Article I thereof, which gives to Congress the power to regulate interstate and foreign commerce, and the Fifth Amendment of the said Constitution, which provides that no person shall be deprived of life, liberty, or property without due process of law.

III

PROCEEDINGS BEFORE THE COMMISSION

5. On the first day of April, 1931, your Petitioners, W. V. Griffin and H. W. Purvis, as Receivers for Georgia & Florida Railroad, filed their application alleging that the rates received for the transportation of the mails were not fair and reasonable, and requesting the Commission to re-examine the facts and circumstances surrounding such transportation and to fix and determine fair and reasonable rates to be received for services rendered on and after said April 1, 1931. A hearing was duly had thereon at which the applicants therein and the Post Office Department were given an opportunity to present evidence and be heard, and did, among other matters and things, present a study to develop the cost to the applicants of transporting

the mails, which study was jointly made and agreed to by said applicants and the Post Office Department. After said hearing briefs were filed, the Examiner thereafter submitted a proposed report, and the case was orally argued before Division 5 of the said Commission.

6. Thereafter, on the 10th day of May 1933, said Division 5
5 of the Commission handed down the report of the Commission in said cause (192 I. C. C. 779), and also a certain order made and entered in that proceeding on the 10th day of May 1933, copies of which said report and order are attached to this petition as Exhibits A and B, respectively, with the same effect as if fully set forth in the body hereof. Thereafter, on July 6, 1933, said applicants filed their petition for a reconsideration in said cause, and the said Commission on the 3rd day of October 1933, by its order entered on that date in said cause, denied said petition for reconsideration, a copy of which said order is attached hereto as Exhibit C, with the same effect as if fully set forth in the body hereof.

IV

GROUNDS FOR RELIEF

7. It appears from said report that the Commission found (a) that said joint cost study showed that the deficit in net railway operating income from the transportation of mail by your petitioners in 1931 was $4,945.00; (b) that said joint cost study resulted in an approximately accurate ascertainment of the actual cost of service, and (c) that to eliminate said deficit in net railway operating income from the transportation of mail and allow a fair return upon the total investment in road and equipment allocated and apportioned to mail based upon said cost study would require that the compensation received by your petitioners for said transportation of mail be increased by 87.40 per cent over the compensation then being received.

8. The finding of the Commission in said report that the rates of pay currently being received by petitioners for the transportation of mail matter were fair and reasonable is contrary to said findings of fact.

9. Said order entered the 10th day of May 1933, attached
6 hereto as Exhibit B, that the rates of pay for the transportation of mail matter currently received by your Petitioners be established as fair and reasonable to be received by your Petitioners for the transportation of mail matter on and after April 1, 1931, is contrary to the Commission's said findings of fact.

10. The finding of the Commission in said report that the rates of pay currently being received by your Petitioners for the transportation of mail matter were fair and reasonable is unsupported by, and contrary to, the evidence.

11. Said order entered the 10th day of May 1933, that the rates of pay for the transportation of mail matter currently received by your Petitioners be established as fair and reasonable to be re-

ceived by your Petitioners for the transportation of mail matter on and after April 1, 1931, is unsupported by, and contrary to, the evidence.

12. The rates of pay for the transportation of mail matter established by said order of the 10th day of May 1933 are not fair and reasonable, and said order is contrary to the requirements of the said Act of July 28, 1916, Chapter 261, Section 5, that the Commission fix and determine the fair and reasonable rates and compensation for the transportation of mail matter by railway mail carriers, and is therefore contrary to law and void.

13. The rates of pay for the transportation of mail matter established by said order of the 10th day of May 1933 are not fair and reasonable, and said order is contrary to the Fifth Amendment of the Constitution of the United States, and is therefore unconstitutional and void.

14. Said order of the Commission of the 10th day of May 1933, and every part thereof, is, by reason of the premises, unlawful and void, because:

(a) The same is and was made in violation of said Act of July 28, 1916, Chapter 261, Section 5.

7 (b) The same is contrary to the undisputed evidence in said proceeding.

(c) The action of the Commission, evidenced by said report and order, is arbitrary, in that such action is not only not supported by the evidence, but the same is contrary to the undisputed evidence before it.

(d) The action of the Commission, evidenced by said report and order, is arbitrary, in that such action is contrary to the Commission's findings of fact in said report.

(e) The Commission has erred in said report and order in applying the law to the facts.

(f) The carrying out of said order against Petitioners deprives them of their property without due process of law and will take the private property of Petitioners for public use without just compensation, in contravention of the Fifth Amendment to the Constitution of the United States.

V

PRAYER FOR RELIEF

15. Your Petitioners therefore pray:

(a) That a subpoena or subpoenas in chancery issue out of and under the seal of this Honorable Court, directed to the defendants, as required by law, and that due and proper service of such process and of this petition be forthwith made by filing a copy thereof in the office of the Secretary of the Commission, and another copy in the Department of Justice, as in said District Court Jurisdiction Act provided, and that thereby the defendants and each of them be required, on or before a date to be specified in such subpoena or

notice, to appear herein and answer this petition, but not under oath, answer under oath being hereby expressly waived.

(b) That after due hearing this Court adjudge, order and decree that said order of the Commission of the 10th day of May 1933,
8 is and has at all times been unlawful, (and) *and* wholly void, and that said order be perpetually set aside, suspended and annulled.

(c) That this Court adjudge, order and decree that the Commission reopen and reconsider said proceeding designated as "Railway Mail Pay, In the Matter of the Application of the Georgia & Florida Railroad Company for Increased Rates of Pay", being a part of No. 9200 on the formal docket of the Commission, to determine the fair and reasonable rates to be received by Petitioners for transportation of the mails on and after said April 1, 1931, in accordance with the undisputed evidence and the Commission's findings of fact thereon.

(d) That your Petitioners may have such other and further relief in the premises as to equity and justice may appertain and as may be deemed by this Honorable Court to be adequate and proper under the circumstances.

W. V. GRIFFIN
and
H. W. PURVIS,
Receivers for Georgia & Florida Railroad.
By HULL, BARRETT & WILLINGHAM,
Augusta, Ga.,
(S.) MOULTRIE HITT, HITT & MUNSON,
420 Union Trust Building, Washington, D. C.,
Attorneys for Petitioners.

9 *Exhibit A to petition*

18659

Interstate Commerce Commission

No. 9200

RAILWAY MAIL PAY

IN THE MATTER OF THE APPLICATION OF GEORGIA & FLORIDA RAILROAD COMPANY FOR INCREASED RATES OF PAY

Submitted March 22, 1933. Decided May 10, 1933

Upon Reexamination, Rates Paid Applicant for the Transportation of Mail Found Fair and Reasonable

Moultrie Hitt and G. Kibby Munson for applicant.

Jennings C. Wise, special assistant to Attorney General, and Edwin A. Niess for Postmaster General.

Report of the Commission on Further Hearing

Division 5, Commissioners Brainerd, Porter, and Farrell

By Division 5:

Exceptions were filed by applicant to the report proposed by the examiner, and the case was orally argued.

By application filed April 1, 1931, the applicant, W. V. Griffin and H. W. Purvis, receivers, alleges that its rates of pay for the transportation of the mails are not fair and reasonable. Applicant requests the Commission to reexamine the facts and circumstances surrounding such transportation and to fix and determine fair and reasonable rates to be received for services rendered on and after April 1, 1931.

The rates paid are those established in Railway Mail Pay, 144 I. C. C. 675, effective August 1, 1928. An order for reexamination was entered on May 14, 1931. A test period of 28 days, from September 28 to October 25, 1931, for obtaining space and other data was selected by the applicant and the Post Office Department, hereinafter referred to as the department. In this period the space operated in all passenger-train cars was recorded, for passenger proper, including baggage and miscellaneous, express, and mail. Two units of mail service are authorized and used: a 15-foot railway post-office apartment unit and 3-foot closed-pouch units. In the test period 95 percent of the service was rendered in the 15-foot apartment unit, the rate for which is 14.5 cents per mile. The apartment unit is used in each direction daily between Valdosta and Augusta, Ga., a distance of 222.9 miles, and daily, except Sundays, between Augusta and Tennille, Ga., 83.3 miles. In the calendar year 1931, apartment service constituted 72.15 percent of the total. The 3-foot closed-pouch service is used under 20 authorizations for hauls of from 8.5 to 56.9 miles. The rate is 4.5 cents per mile. The frequency of this service varies from service on Sundays only to six days per week. The total pay for the calendar year 1931 was $35,728, exclusive of $979 for service in motor cars.

Throughout the test period 3,045,704 car-foot miles were operated in passenger-train service for passenger proper, baggage, miscellaneous express, and mail. This total includes all passenger-train cars, passenger coaches, sleeping and dining cars, and combination and mixed-traffic cars, except motor cars. The distribution of the total among the several services is made in accordance with the plan used in prior cases. The method is described in Railway Mail Pay, supra. In this plan, referred to here and in the prior proceeding as plan 2, car-miles and car-foot miles of operation in cars employed exclusively for one service are referred to as full cars, whether loaded or not, and the entire operation of each is allocated to the service to which it is assigned. The space in combination and mixed cars is

allocated to each service according to the space used, except that space authorized for mail is regarded as space used. The unused space in such cars is apportioned in proportion to the space used. The results of the allocation and apportionment of the car-foot miles under plan 2 are shown in the following table:

Class of service	Full cars	Combination and mixed cars				Total all cars	
		Used [1]	Percent of total used	Apportionment of unused	Percent of unused	Amount	Percent
Passenger proper, including baggage and miscellaneous	1,728,382	368,306	49.25	280,356	49.25	2,377,144	78.05
Express		119,593	15.99	91,056	15.99	210,649	6.92
Mail		259,968	34.76	197,943	34.76	457,911	15.03
Total	1,728,382	747,867	100.00	569,455	100.00	3,045,704	100.00

[1] Authorized in case of the mail.

The car-foot miles of service in the test period of 28 days was equivalent to 82.78 percent of the car-foot miles for a 28-day period computed from the total car-foot miles actually operated throughout the year 1931. The department therefore adjusted the space data to reflect the actual operation for the year. This resulted in a space ratio for mail under plan 2 of 12.96 instead of 15.03. The ratio for passenger, including baggage and miscellaneous, is 80.35 and for express 6.69. The applicant while criticizing the adjustment does not contest it.

11 The space ratios are applied to the expenses. The ratios of expense so derived are used to apportion investment in road and equipment, except items directly allocated. The direct allocations are relatively small.

For the year ended December 31, 1931, the total operating expenses, railway tax accruals, net equipment, and joint-facility rents were $1,449,801. Of this amount 21.74 percent, or $315,273, was apportioned to passenger-train service in accordance with the formulas prescribed for class I roads for the separation of expenses between freight and passenger services. Certain expenses were directly allocated to passenger traffic. The remainder was apportioned upon the space ratios as adjusted by the department. The total apportioned to mail was $40,673. The computed deficit in net railway operating income from mail was $4,945.

The total investment in road, excluding unrelated items, was $15,864,462. Of this, 21.44 percent, or $3,401,578, was apportioned by the department to passenger-train service. The part of the latter amount apportioned to mail upon the adjusted space ratio was $438,803. The total investment in equipment, less depreciation, allocated to the passenger-train service was $135,257, approximately 10 percent of the total. Of this amount $18,279 was allocated and apportioned to the mail service. The total investment in road and

equipment allocated and apportioned to mail was $457,082. A return upon this computed at 5.75 percent is $26,282 which, added to the indicated deficiency in net railway operating income from mail of $4,945, brings the total claim of the carrier for increased compensation to $31,227. To meet it upon the basis of 1931 operations would require an increase in compensation of 87.40 percent.

The department opposes any increase upon the principal ground that the present rates were established as reasonable for all carriers based upon an examination of the service as a whole. The applicant, however, under the railway mail-pay statute is entitled to show, if it can, upon reexamination that in so far as it is concerned the rates so established are not fair and reasonable. In determining that issue we must take into consideration all factors that have a bearing upon it.

An exmination of the data shows that of the three services included in passenger-train service as a whole the mail service makes the best showing with respect to revenue. The total mail revenue of $35,728 for the year 1931 on a space ratio of 12.96 was only $594 less than the total revenue from passenger service proper, including baggage, and miscellaneous service, with a space ratio of 80.35. The operating ratio for the entire passenger-train service, including express and mail was 357.43. The distribution of expense upon
12 the space ratios shows that the operating ratio for mail service was 102.79 as compared with 630.14 for passenger proper, including baggage, etc., and 249.67 for express. In other words, the passenger service proper including baggage and miscellaneous, with a total revenue of $36,322 showed a computed deficit in net revenue from railway operations of $192,661; express with a revenue of $7,593 showed a deficit of $11,364; and mail with a revenue of $35,728 showed a deficit of only $997. The total passenger-train service revenue was equal to 5.86 percent of the total railway operating revenue. The railway operating expense allocated and apportioned to the passenger-train service was 21.33 percent of the total railway operating expense.

The data also show that in the three years 1929 to 1931, inclusive, mail revenues have been relatively more stable than the revenues from the other passenger-train services. In 1929, the revenue from passenger proper, including baggage, etc, was $111,289, from express, $21,681, and from mail $40,904. In 1930, revenue from passenger proper, etc., was $64,038, from express, $12,463, and from mail, $39,087. In 1931, revenue from passenger proper, etc., was $36,322, from express, $7,593, and from mail, $35,728. Revenue from passenger proper decreased 67 percent, from express, 64 percent, and from mail, 12 percent.

Passenger revenue from passenger-train service as a whole including express and mail, in 1929, was $173,874; in 1931, it was $79,643, a decrease of 54 percent. Allocated and appropriated passenger-train railway operating expenses decreased only 23 percent in the same

period, that is, from $370,740 in 1929 to $284,667 in 1931. The number of car-miles operated in passenger-train service decreased 25 percent in the same period.

The department showed the maximum and minimum number of mail bags, or their equivalent in packages carried outside such bags, handled on any trip, and the average of the maximum and minimum handled in 3-foot closed-pouch units on all trips during the test period. This unit, which is the smallest unit that can be authorized, has a maximum capacity of 56 bags, or the equivalent in outside packages. During the test period the maximum number carried on any one trip ranged from 6 to 27; except in one instance 61 were carried. The average maximum number handled on all trips ranged from 2 to 20, except in the one case referred to where it was 55 upon an authorization on Sundays only, between Tennille and Keysville, Ga., a distance of 56.9 miles. The miles of service per year of this authorization constituted about 4 percent of the total miles of service per year in all the 3-foot closed-pouch units.

Miles of service in closed-pouch units for the year 1931 were
13 27.84 percent of the total miles of mail service. The revenue therefrom was about 12 percent of the total mail revenue. In the test period the relation of service in closed-pouch units to the total was different. In that period only 5 percent of the service was in such units. As shown before, the actual use of the units was considerably below the maximum capacity. The use of authorized space for mail in the space study instead of space actually occupied resulted in a somewhat higher space ratio and the apportionment of greater expense to the mail. In this instance, probably, the difference in the result for the test period would not be great because of the small amount of closed-pouch space in relation to the total in the test period. Applied to operations for a full year, however, the difference probably would be considerable. The 15-foot apartment unit earned by far the greater portion of the revenue. The department states that if the mail-pay rates are increased consideration of economy might compel a discontinuance of apartment-car service where closed-pouch service at lower rates would suffice.

Applicant bases its claim for higher rates upon the space data of the test period and their application in a cost study; and also upon the fact that, because of its low traffic density and low earnings per mile of road, it is not comparable with many class I roads which receive the same rates of pay.

The cost study is not considered to be an accurate ascertainment of the actual cost of service. It is an approximation to be given such weight as seems proper in view of all the circumstances. See Railway Mail Pay, supra. The comparison of mail revenue with other revenue received for services in passenger-train operations shows that mail with relation to the other services is bearing its fair share of the expenses of operation and is contributing relatively more than the other services for the space furnished. Applicant

receives the same rates as those received by other roads for the same kind of service. Many of these other roads are, as applicant points out, roads which are very much larger and which have greater traffic and lower unit operating costs. On the other hand, many are in much the same situation as the applicant in respect of passenger-train operations. The data submitted fail to justify giving the applicant rates higher than those now paid other railway common carriers for like service.

We find that the rates of pay now received by applicant for the transportation of mail, established in Railway Mail Pay, 144 I. C. C. 675, for railroads over 100 miles in length, are fair and reasonable. The application for increased compensation is denied.

An appropriate order will be entered.

192 I. C. C.

14 *Exhibit B to petition*

[Copy]

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 10th day of May A. D. 1933.

No. 9200

RAILWAY MAIL PAY

It appearing, That upon application filed April 1, 1931, by the Georgia & Florida Railroad Company, W. V. Griffin and W. H. (H. W.) Purvis, Receivers, a railway common carrier engaged in transporting mail matter and answer thereto by the Postmaster General, the commission by order entered May 14, 1931, reopened this proceeding for reexamination and further hearing with respect to the rates paid applicant for such transportation.

It further appearing, That a full investigation of the matter and things involved has been had, and that said division, on the date hereof, has made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That the rates of pay for the transportation of mail matter established on Railway Mail Pay, 144 I. C. C. 675 for railroads over 100 miles in length be and they are hereby established as fair and reasonable rates to be received by the applicant herein for services rendered on and after April 1, 1931.

And it is further ordered, That a copy of this order be served upon the Postmaster General and upon the applicant herein.

By the commission, division 5.

[SEAL] GEORGE B. MCGINTY, *Secretary.*

15 *Exhibit C to petition*

[Copy]

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 3rd day of October A. D. 1933.

No. 9200

RAILWAY MAIL PAY

IN THE MATTER OF THE APPLICATION OF GEORGIA & FLORIDA RAILROAD COMPANY FOR INCREASED RATES OF PAY

Upon further consideration of the record in the above-entitled proceeding, and upon consideration of petition of applicant for reconsideration:

It is ordered, That the said petition be, and it is hereby, denied.

By the Commission.

[SEAL] GEORGE B. MCGINTY, *Secretary.*

16 [*Duly sworn to by Walter Blanchard, jurat omitted in printing.*]

Order on petition

The foregoing petition being regularly presented to me, it is upon consideration of the sworn allegations thereof ordered that the same be filed. The Court takes no action with reference to said petition at this time further than sanctioning the petition for filing, but will entertain a motion at any time within the next thirty days for the entry of a further order herein in accordance with the prayers of said petition.

This March 2nd, 1934.

WM. H. BARRETT,
United States Judge.

[File endorsement omitted.]

17 In United States District Court

In Equity, No. 207.

Order extending time

Filed March 31, 1934

The petition in the above-entitled cause was regularly presented to the Court at Savannah, Georgia, on March 2, 1934, at which time the petition was sanctioned for filing, but no affirmative action was taken by the Court other than to provide that he would entertain a motion at any time within the succeeding thirty days for the entry

of a further order in accordance with the prayers of said petition. A request is now made for an extension of the time for submitting the motion referred to in said original order, which appears to be reasonable and proper:

It is, thereupon, considered, adjudged and ordered by the Court that the time for submitting the motion referred to in said original order entered herein be, and the same is hereby, extended for an additional period of sixty days, so that said petitioners may have, and they are hereby accorded, the right to submit their motion for the entry of a further order in said proceeding, in accordance with the prayers of the original petition filed therein, at any time within ninety days from the date of the original order of sanction entered thereon.

This 31st day of March 1934.

WM. H. BARRETT,
United States Judge.

[File endorsement omitted.]

18 In United States District Court

[Title omitted.]

In Equity, No. 207

Order extending time

Filed May 28, 1934

The petition in the above entitled cause was regularly presented to the Court at Savannah, Georgia, on March 2, 1934, at which time the petition was sanctioned for filing but no affirmative action was taken by the Court other than to provide that he would entertain a motion at any time within the succeeding thirty days for the entry of a further order in accordance with the prayers of said petition. Subsequently an order was entered on March 31, 1934, extending and increasing this time to ninety days, and on this date an application has been made by the plaintiffs for a final order. At the present time the Court is contemplating a necessary absence from his District of an indefinite duration and therefore hesitates in entering a final order providing for a hearing in said cause, as counsel state that there is no imperative necessity for an immediate hearing of the case.

For the purpose of avoiding the possible necessity for continuances and insuring a prompt hearing when said cause is assigned, it is, thereupon, considered, adjudged, and ordered by the Court that the time for submitting the motion referred to in said original order entered herein be and the same is hereby extended for a period of sixty days from the expiration of the period provided for in the order of March 31, 1934, so that said petitioners may have, and they

are hereby accorded, the right to submit their motion for the
19 entry of a further order in said proceeding in accordance with the prayers of the original petition filed herein at any time within one hundred fifty days from March 2, 1934, the date of the original order of sanction entered thereon.

This 28th day of May, 1934.

WM. H. BARRETT,
United States Judge.

[File endorsement omitted.]

20 In United States District Court

[Title omitted.]

In Equity, No. 207

Order extending time

Filed July 30, 1934

The petition in the above entitled cause was regularly presented to the Honorable William H. Barrett, United States Judge, at Savannah, Georgia, on March 2, 1934, at which time the petition was sanctioned for filing but no affirmative action was taken by the Court other than to provide that he would entertain a motion at any time within the succeeding thirty days for the entry of a further order in accordance with the prayers of said petition. Subsequent orders were taken extending the time for the entry of such further order until the 2nd day of August, 1934, an it is now apparent that Judge Barrett will not be in his District to consider this matter within the time provided in said orders of extension. This Court by proper designation is fully authorized to consider and pass upon the matters presented in said petition, but in the absence of any necessity for immediate action it appears advisable to allow the proceeding to pend in its present form until the return to the District of Judge Barrett, who is especially familiar with the details of the Receivership of the Georgia & Florida Railroad:

It is, therefore, upon motion of counsel for the petitioning Receivers considered, adjudged, and ordered by the Court that the time for submitting the motion referred to in said original order entered herein be and the same is hereby extended until November 15,
21 1934, so that said petitioners may have and they are hereby accorded the right to submit their motion for the entry of a further order in said proceeding in accordance with the prayers of the original petition filed herein at any time prior to November 15, 1934.

This 28th day of July, 1934.

BASCOM S. DEAVER,
United States Judge, Designate.

[File endorsement omitted.]

22 In United States District Court

[Title omitted.]

In Equity, No. 207

Order extending time

Filed November 24, 1934

Upon consideration it is Ordered:

That the time for the presentation for signing of a final order in accordance with the prayers of the petition, sanctioned on March 2, 1934, in the above cause be and the same is hereby extended until the 21st day of November, 1934, or at any time between this date and the 15th day of December, 1934, that a motion may be presented. This November 14, 1934.

WM. H. BARRETT,
United States Judge.

[File endorsement omitted.]

23 In United States District Court

[Title omitted.]

In Equity, No. 207

Order convening three-judge court

Filed November 24, 1934

The petition in the above entitled cause was regularly presented to the Court at Savannah, Georgia, on March 2, 1934, at which time the petition was sanctioned for filing, but at the request of the petitioners no affirmative action was taken by the Court other than to provide that he would entertain a motion at any time within the succeeding thirty days for the entry of a further order in accordance with the prayers of said petition. Afterwards, for satisfactory reasons, the Court extended this period of time in which said motion might be made until November 15, 1934, by successive orders which are now duly filed as a part of the record in said cause. Said petitioners now appear before the Court and orally move that said petition be further considered and an order be entered thereon providing for a hearing and determination of the issues presented.

From a consideration of the verified bill of complaint, it appears that said proceeding seeks, after hearing, a permanent order of injunction setting aside, suspending, and annulling an order of the Interstate Commerce Commission, more fully referred to and described in the said bill of complaint, and an order and decree that the Commission reopen and reconsider the proceedings in

24 which said order of the Interstate Commerce Commission was made, in accordance with the final order of this Court, with such relief sought under the Act of June 18, 1910 (36 Stat. L. 539), as well as the other statutes referred to in said bill, upon the ground of the unconstitutionality and illegality of said order.

It is, thereupon, considered, ordered, adjudged, and decreed as follows:

1. That the usual subpoenas do issue and be served according to law, together with a copy of the original bill of complaint, with a copy of the order of March 2, 1934, copies of the several orders extending the time in said proceeding, and a copy of this order attached, with such service to be perfected by filing a copy of said proceeding with subpoena attached, in the office of the Secretary of the Interstate Commerce Commission and another copy in the Department of Justice.

2. This Court hereby calls to his assistance to hear and determine said application for relief as sought in this cause the Honorable Samuel H. Sibley, of the Circuit Court of Appeals for the Fifth Circuit, and the Honorable E. Marvin Underwood, of Judge of the Northern District of Georgia.

November 24th, 1934.

WM. H. BARRETT,
United States Judge.

[File endorsement omitted.]

25 In United States District Court

In Equity, No. 207

[Title omitted.]

Equity subpoena to appear and answer

THE PRESIDENT OF THE UNITED STATES OF AMERICA,
To United States of America, and Interstate Commerce Commission.

Greeting: For certain causes offered before the Judge of the District Court of the United States for the Southern District of Georgia, In Equity, you and each of you are hereby commanded and strictly enjoined that, laying all other matter aside and notwithstanding any other excuse, you personally be and appear at the Clerk's Office of the said Court, in the City of Augusta to be had, on December 14th, 1934, to answer to those things which shall then and there be objected to you in a Bill in Equity to enjoin enforcement of order of Interstate Commerce Commission relative to rates of pay for mail service rendered by Receivers of Georgia & Florida Railroad and to do further and receive what the said Court shall have considered in that behalf, and this you may in no wise omit, under penalty of Five Hundred Dollars: and have here this writ.

Witness the Honorable Judge William H. Barrett, of the District Court of the United States, this November 24th in the year of Our Lord, One Thousand Nine Hundred and Thirty-four.

[SEAL] (S.) ORLENA T. WEAVER,
Deputy Clerk.

Memorandum.—The Defendant is required to file his answer on other defense in the Suit above stated in the Clerk's Office on or before the 20th day after service, excluding the day thereof, otherwise the Bill may be taken pro confesso.

(S.) ORLENA T. WEAVER,
Deputy Clerk.

26 In United States District Court

In Equity, No. 207

[Title omitted.]

Answer of United States of America

Filed Dec. 29, 1934

United States of America, one of the above-named defendants, for answer to the petition filed herein against it answers and says:

I

United States admits the truth of the allegations contained in the opening section of the petition and in sections I, II, and III thereof, except that it denies the allegation in said section III that the Post Office Department either jointly made or agreed that the cost study presented to the Commission by petitioners showed the cost of the service rendered by them or what the fair and reasonable rates for such service should be.

II

United States denies each and every allegation contained in section IV of the petition and denies that the order of the Interstate Commerce Commission issued May 10, 1933, in the
27 proceeding therein described is unlawful for the reasons set forth in said section or for any of them; and United States denies that the allegations of said section IV contain a fair or accurate description of the statements, findings, and conclusions made by the Commission in its said report of May 10, 1933; that the Commission stated, among other things, in said report that: "The cost study is not considered to be an accurate ascertainment of the actual cost of service. It is an approximation to be given such

weight as seems proper in view of all the circumstances." For a full and complete statement of the statements, findings, and conclusions made by the Commission in its said report (annexed as Exhibit A to the petition) United States respectfully refers the Court to the full text thereof.

III

For a further defense to the petition and the allegations therein set forth, United States says that the petition is without equity on its face, and that the facts therein alleged do not constitute a cause of action against the United States:

(1) The Commission's report shows on its fact that its findings of fact are consistent with and adequately support its ultimate conclusion and order;

(2) The petition and the Commission's report, annexed as Exhibit A, disclose that there was evidence before the Commission to justify and support its findings and order;

(3) The Court is without jurisdiction to determine whether the rates prescribed by the Commission are fair and reasonable, that function having been reposed exclusively in the Commission, as shown by the petition itself and the Act of Congress therein mentioned;

(4) The petition (including Exhibit A thereto) shows on
28 its face that the Commission granted a full hearing and based its findings and order upon evidence duly of record before it, and that it did not therefore act arbitrarily or otherwise unlawfully in issuing said order.

(5) The petition alleges no facts to support or justify the conclusion alleged therein (Section IV, 14 (f)) that the rates prescribed are confiscatory or will deprive petitioners of their private property without due process of law and just compensation.

(6) The Court is without power under the Act invoked by the petition to order the Commission to reopen and reconsider its decision and order, and is without any power whatever to compel the Commission to find that other rates than those prescribed by its order are fair and reasonable, hence the Court has no power to grant the relief prayed in said section V, 15 (c) of the petition.

(7) The Court has no power upon the facts and allegations of the petition to grant effective relief to petitioners because the petition, including Exhibit A, shows on its face that the rates found to be fair and reasonable by the Commission in this proceeding are the rates prescribed by its previous order of July 10, 1928; and, since that order is not attacked by the petition but will remain effective regardless of any decree issued in this suit, petitioners will be thereby compelled to have and abide by the same rates they now have, even though the order of May 10, 1933, be enjoined and annulled, and will by the decree herein prayed obtain no relief from their present rates.

IV

Except as herein expressly admitted, United States denies each and every allegation contained in the petition and in the several sections and subdivisions thereof.

29 Wherefore, having fully answered the petition, United States prays that the relief therein prayed be denied and that the petition be dismissed, at petitioners' cost.

ELMER B. COLLINS,
Special Assistant to the Attorney General.
HAROLD M. STEPHENS,
Assistant Attorney General.
J. SAXTON DANIEL,
United States Attorney.

30 [*Duly sworn to by Elmer B. Collons, jurat omitted in printing.*]

[File endorsement omitted.]

31 In United States District Court

[Title omitted.]

In Equity, No. 207

Answer of Interstate Commerce Commission

Filed Dec. 7, 1934

The Interstate Commerce Commission, hereinafter called the Commission, one of the defendants in the above-entitled suit, now and at all times hereafter saving and reserving to itself all and all manner of benefit and advantage of exception to the many errors and insufficiencies contained in the petitioners' petition, for answer thereunto or unto so much or such parts thereof as it is advised that it is material for it to answer, answers and says:

I

Answering the opening paragraph and paragraphs I and II, of the petition, the Commission admits, for the purposes of this suit, that the allegations therein contained are true.

32 II

Answering paragraphs III to V, inclusive, of the petition, the Commission admits and alleges that it made and entered the report and order, dated May 10, 1933, referred to in the petition and made a part thereof as Exhibit A, in a proceeding then pending before it

entitled Docket No. 9200—Railway Mail Pay—In the Matter of the Application of Georgia & Florida R. R. Co. for Increased Rates of Pay; that said proceeding was instituted by the Commission following the filing of an application with it on April 1, 1931, by W. V. Griffin and H. W. Purvis, Receivers, alleging that the rates of pay established for petitioners and other carriers by the Commission in Railway Mail Pay, 144 I. C. C. 675, effective August 1, 1928, were not fair and reasonable as to petitioners, and requesting the Commission to re-examine the facts and circumstances surrounding petitioners' transportation and to fix and determine fair and reasonable rates to be received for services rendered on and after April 1, 1931; that, pursuant to said application, the Commission, on May 14, 1931, entered an order for re-examination; that full hearings were had thereafter; that a proposed report was then prepared by a Commission examiner, recommending that the Commission find that the application for increased compensation be denied; that exceptions to this proposed report were filed with the Commission by the petitioners; that thereafter, on March 22, 1933, the proceeding came on before Division 5 of the Interstate Commerce Commission for oral argument; that thereafter the Commission made and entered
33 and served upon all the parties in said proceeding, the report and order of May 10, 1933, hereinbefore referred to, attached to and made a part of the petition as Exhibit A, to which the Commission respectfully refers the Court for information concerning its findings and requirements in the premises; that in said proceeding the parties thereto, including the petitioners herein, were, and each of them was, accorded the full hearing provided for by the Interstate Commerce Act; that in said hearings a large volume of testimony and other evidence bearing upon the matters covered in said report and order was submitted to the Commission for consideration, including testimony and other evidence submitted on behalf of petitioners herein by their counsel; that at said hearings and subsequently, both orally and in briefs filed in said proceeding, questions relating to said matters were fully argued and submitted to the Commission for determination on behalf of said parties by their respective counsel, including many of the particular questions raised by petitioners in this suit, whereupon the Commission determined said matters and entered and served upon all the parties to said proceeding, including the petitioners herein, its said report and order of May 10, 1933; that said report and order included the Commission's findings of fact, decision, conclusions, order and requirements in the premises; that, upon the evidence aforesaid, and as shown in and by said report, the Commission made the findings and stated the conclusions upon which said report and order are based; that, following the service of the Commission's said report of May 10, 1933, petitioners herein, on July 6, 1933, filed with
34 this Commission a petition for reconsideration; and that, on October 3, 1933, as shown by Exhibit C to the petition, the

Commission entered an order denying said petition for reconsideration.

The Commission further alleges that the findings and conclusions in said report were and are, and that each of them was and is, fully supported and justified by the evidence submitted in said proceeding as aforesaid.

The Commission further alleges that in making said report it considered and weighed carefully, in the light of its own knowledge and experience, each fact, circumstance, and condition called to its attention on behalf of the parties to said proceedings by their respective counsel, including matters covered by the allegations of the petition herein.

The Commission further alleges that said report and order of May 10, 1933, were not made or entered either arbitrarily or unjustly, or contrary to the relevant evidence, or without evidence to support them; that in making said order the Commission did not exceed the authority which had been duly conferred upon it, and the Commission denies each of and all the allegations to the contrary contained in the petition herein.

Further answering parapraph III of the petition, the Commission admits that the allegations therein contained are true.

35 Further answering paragraph IV of the petition, the Commission denies that its said order of May 10, 1933, is invalid either for any of the reasons set forth in said paragraph, or for any other reason or reasons.

Further answering the allegations of the petition, the Commission denies any authority on the part of this Court to grant any of the relief prayed for in subdivision (c) of Paragraph V of the petition.

Except as herein expressly admitted, the Commission denies the truth of each of and all the allegations contained in the petition in so far as they conflict either with the allegations herein, or with either the statements or conclusions of fact included in said report and order of May 10, 1933, which report and order is hereby referred to and made a part hereof.

All of which matters and things the Commission is ready to aver, maintain, and prove as this Honorable Court shall direct, and hereby prays that said petition be dismissed.

INTERSTATE COMMERCE COMMISSION,
By EDWARD M. REIDY.

DANIEL W. KNOWLTON,
Chief Counsel,
Of Counsel.

36 [*Duly sworn to by P. J. Farrell, jurat omitted in printing.*]

[File endorsement omitted.]

37 Before Interstate Commerce Commission

Docket No. 9200

IN THE MATTER OF THE PETITION OF THE GEORGIA & FLORIDA RAILROAD, AND W. V. GRIFFIN AND H. W. PURVIS, ITS RECEIVERS, FOR A RE-EXAMINATION OF RATES FOR THE TRANSPORTATION OF THE UNITED STATES MAIL

Petition

April 1931

To the Interstate Commerce Commission:

Now comes Georgia & Florida Railroad, and W. V. Griffin and H. W. Purvis, its Receivers, and respectfully petition the Interstate Commerce Commission for a re-examination of the rates received by them for the transportation of United States mail and the service connected therewith on the line of the Georgia & Florida Railroad, and in that behalf respectfully show:

1. Petitioners are engaged in the operation of a common carrier railroad for the transportation of passengers and property and United States mail in the States of Georgia and Florida, and are subject to the Interstate Commerce Act.

2. Under the provisions of the Act of July 28, 1916, 39 Stat. L. 412, the Interstate Commerce Commission was empowered and directed to fix and determine from time to time the fair and reasonable
38 rates of compensation for the transportation of such mail matter by railway common carriers and the services connected therewith, and to prescribe the method or methods by weight, or space, or both, or otherwise, for ascertaining such rate or compensation.

3. The rates now received by Petitioners for the transportation of said United States mail and the service connected therewith are those prescribed by the Interstate Commerce Commission in its Order dated July 10, 1928, in a proceeding entitled Railway Mail Pay, Docket No. 9200, 144 I. C. C. 675.

4. More than six months have elapsed since the entry of said orders as to which a re-examination is now prayed for by these Petitioners.

5. The rates now being received by these Petitioners for the transportation of the United States mail and the service connected therewith are inadequate, unreasonable and unjust, and are not in conformity with the provisions of the Act of July 28, 1916, 39 Stat. L. 412, in that they do not yield, and have not up to this time yielded, fair, reasonable or adequate compensation to the Georgia & Florida Railroad and its Receivers.

6. Said order of July 10, 1928, prescribed certain increased rates of payment for the transportation of United States mail and the service connected therewith, to wit, that on and after August 1, 1928, the rates of payment for transportation of said mail and the service connected therewith to be received by common carrier steam railroads under the length of 100 miles should be increased by 80 per cent additional to the rates received prior thereto, and said rates to be received by common carrier steam railroads 100 miles or
39 more in length should be increased by 15 per cent additional to the rates received prior thereto.

7. Said increased rates for the transportation of such mail were in said order based upon the finding as to the average cost of transporting such mail by steam railroads throughout the entire United States and neither represented the cost of transporting the mail upon any one individual common carrier steam railroad, nor the cost of transporting such mail by your Petitioners.

8. By reason of the foregoing facts and in order that your Petitioners may receive fair and reasonable compensation for the transportation of the United States mail and the service connected therewith, it is necessary that the rates received by these Petitioners for the transportation of the United States mail and the service connected therewith shall now be increased and that the Petitioners shall receive such increased rates for the transportation of said mail and the service connected therewith.

Wherefore, your Petitioners pray that the Commission institute a re-examination of the facts and circumstances surrounding the transportation of United States mail by them and the service performed by them in connection therewith, from and after the filing of this application, and by subsequent order fix and determine the just, reasonable and adequate rates of pay therefor during said period and for the future, and further shall order such readjustment of compensation for service rendered after the date hereof, as it shall deem proper.

GEORGIA & FLORIDA RAILROAD, AND
W. V. GRIFFIN AND H. W. PURVIS,
Its Receivers.

By H. W. PURVIS, *Receiver.*
40 MOULTRIE HITT,
G. KIBBY MUNSON,
Attorneys for Petitioner,
420 Union Trust Building, Washington, D. C.

APRIL 1, 1931.

41 Before Interstate Commerce Commission

Docket No. 9200

IN RE RAILWAY MAIL PAY

Answer of the Postmaster General to the petition of the Georgia & Florida Railroad, and W. V. Griffin and H. W. Purvis, its Receivers, for a Re-Examination of Rates for the Transportation of the United States Mail

April 9, 1931

42 Comes now the Postmaster General and makes answer to the petition herein:

I.

In the last General Mail Pay Case decided July 10, 1928, the Post Office Department presented financial exhibits showing the results of cost studies under three different plans.

These exhibits show that under the plan adopted by the Commission there was a statistical deficiency in net income for the year 1925 for the Georgia & Florida Railroad of $6,142.43. This railroad received under the order of the Commission of July 10, 1928, an increase of 15% which when taken into consideration shows a statistical deficiency in net income of $1,890.40 without any return on investment apportioned to the mails.

43 Under the plan recommended by the Post Office Department there was a net income of $5,314.43. Taking into consideration the increase of 15% received in the order of July 10, 1928, the net railway operating income appears as $10,066.46.

It may be true that under the plan adopted by the Commission there was a statistical deficiency in net railway operating income and no return on investment, but if the plan recommended by the Post Office Department is adopted, this deficiency of $1,890.40 in net railway operating income becomes a net railway operating income of $10,066.46.

The Postmaster General has never accepted the plan adopted by the Commission as an equitable one. He is of the opinion that if it is necessary for the Commission to consider this railroad separately, the principles laid down in the plan recommended by the Department should be given further consideration and adopted.

Rates for the transportation of the mails were established by the Commission based on general averages. The mail rates applicable to the Georgia & Florida Railroad were established from statistical information and other facts relating to railroads other than separately operated railroads under the 100 miles in length.

44 Cost studies in the last General Mail Pay Case showed that the rate of return for mail service for individual railroads

varied greatly. Some showed a deficiency while others showed an excessive return. Notwithstanding these facts the Commission in its order of July 10, 1928, allowed an increase of 80% to all separately operated railroads under 100 miles in length and 15% to others, based on the group showings for these railroads.

Should the Commission reopen Docket No. 9200 and finally grant the request of the plaintiff to increase the rates of pay established by their order on general averages, other mail carriers showing similar facts may proceed likewise. The Postmaster General in cases where the return on the investment for individual railroads is excessive may also apply for a reduction in the rates of pay. Should this situation obtain individual rates for each railroad will eventually follow which the Postmaster General thinks is undesirable.

The Postmaster General is of the opinion that as the rates applicable to railroads of this class were established from statistical and other data submitted by the railroads comprising this group, unless the plaintiff can show its situation is so different from that of other carriers in its group as to be exceptional, its request for increased rates of pay should be denied.

45 II

If the Commission should make an order under the provisions of the Act of July 28, 1916, for a reexamination of the facts and circumstances surrounding the transportation of the mails, and the services connected therewith, the Postmaster General will undertake to cooperate with the representatives of the Georgia & Florida Railroad and its Receivers in securing the usual necessary statistics for submission to the Commission with reference to cost and other matters to enable the Commission to determine whether the conditions on this railroad are exceptional to the extent stated above and, if so, to enable them to fix just and reasonable rates for the transportation of the mails.

For the Postmaster General.

Respectfully submitted.

(Signed) J. C. WISE,
Special Assistant to the Attorney General.

APRIL 9, 1931.

46 Before Interstate Commerce Commission

No. 9200

RAILWAY MAIL PAY

Order reopening proceeding

May 14, 1931

It appearing, That on July 10, 1928, the commission entered its report and order in the above-entitled proceeding and prescribed

fair and reasonable rates of pay for the transportation of United States mail by railway common carriers, subject to the act of July 28, 1916, 39 Stat. 412, including, among others, the Georgia & Florida Railway Company:

It further appearing, That the said railroad company, W. V. Griffin and H. W. Purvis, receivers, has filed an application for a reexamination of the facts and circumstances surrounding the transportation of United States mail and the services performed in connection therewith, and that the Postmaster General has filed an answer thereto:

It is ordered, That this proceeding be, and it is hereby, reopened for reexamination and such further hearing as the commission may direct with respect to the facts and circumstances surrounding the transportation of the mails and the services connected therewith by the said Georgia & Florida Railroad Company, W. V. Griffin and H. W. Purvis, Receivers.

It is further ordered, That a copy of this order be served upon the Postmaster General and the said railway common carrier.

By the commission, division 5.

[SEAL] (S.) GEORGE B. MCGINTY, *Secretary.*

47 Before Interstate Commerce Commission

Docket No. 9200

IN THE MATTER OF THE PETITION OF THE GEORGIA & FLORIDA RAILROAD, AND W. V. GRIFFIN AND H. W. PURVIS, ITS RECEIVERS, FOR A RE-EXAMINATION OF RATES FOR THE TRANSPORTATION OF THE UNITED STATES MAIL

Petition for reconsideration

July 6, 1933

Comes now the Applicant in the above-entitled proceeding and respectfully petitions the Commission to grant reconsideration therein, and in support of said petition respectfully shows:

I

The decision of Division 5 that no increase in mail pay should be allowed Applicant is, on the face of its report and order a taking of property without just compensation, in violation of Applicant's constitutionally guaranteed rights. Note (a):

NOTE (a).—The term "compensation" as used in the various constitutional provisions forbidding the taking of private property for public use without making just compensation means a full indemnity or remuneration for the loss sustained by the owner of property taken or injured, and such constitutional requirement is not satisfied by a mere colorable compliance. 20 Corpus Juris 641–2.

48

II

The conclusion of Division 5 "that the rates of pay now received by Applicant for the transportation of mail, established in Railway Mail Pay, 144 I. C. C. 675, for railroads over 100 miles in length, are fair and reasonable" is contrary to the Division's findings of fact—

"(a) That the deficit in net railway operating income from mail in 1931, computed in accordance with Plan 2 (Appe'dix 3 hereto) described in Railway Mail pay, 144 I. C. C. 675 and prior cases, was $4,945.00.

"(b) That to meet the need of $31,227.00 increased compensation to (1) eliminate the deficit in net railway operating income from mail of $4,945.00 and (2) allow a return of 5.75 per cent upon the total investment in road and equipment of $457,082.00 allocated and apportioned to mail, upon the basis of 1931 operations, would require an increase in compensation of 87.40 per cent.

"(c) That the cost study (Plan 2 Appendix 3 hereto) results in an approximately accurate ascertainment of the actual cost of service (Appendix 2 hereto.)

III

Division 5 correctly stated the law to be that the Applicant, "under the railway mail-pay statute, is entitled to show, if it can, upon reexamination that in so far as it (and it alone) is concerned, the rates so established are not fair and reasonable", and it found that under the cost study used and approved in this and all prior cases

49 (Appendix 3 hereto) an increase in compensation of "approximately" 87.40 per cent, upon the basis of 1931 operations, was required to meet operating expenses and yield a fair return upon investment devoted to carrying the mail, but it then erred in re-establishing as fair and reasonable the rates then in effect without any increase whatever.

Wherefore, Petitioner prays that reconsideration, and reargument if necessary, be granted in the above entitled case and that the Commission enter such further order or orders in the premises as to it may seem reasonable and just.

Dated at Augusta, Ga., July 6th, 1933.

GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN,
AND H. W. PURVIS, *Receivers*,
By H. W. PURVIS,
Receiver and General Manager,
Post Office Address: Augusta, Georgia.

MOULTRIE HITT,
G. KIRBY MUNSON,
Attorneys for Petitioner,
420 Union Trust Building, Washington, D. C.

50 CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by mailing a copy thereof properly addressed to each party.

Dated at Washington, D. C., this 6th day of July, 1933.

MOULTRIE HITT,
Of Counsel for Applicant.

51 Before the Interstate Commerce Commission

Docket No. 9200

IN RE RAILWAY MAIL PAY

IN THE MATTER OF THE PETITION OF THE GEORGIA & FLORIDA RAILROAD, AND W. V GRIFFIN AND H. W. PURVIS, ITS RECEIVERS, FOR A RE-EXAMINATION OF RATES FOR THE TRANSPORTATION OF THE UNITED STATES MAIL

Reply of the Postmaster General of the United States to the Petition of the Carrier for Reconsideration

July 24, 1933

52 The petition of the carrier prays for a reconsideration, and reargument if necessary, in the above-entitled case and the establishment by a further order or orders of a new and increased scale of rates in lieu of those now in effect under the order of the Commission.

In support of its petition the applicant carrier alleges three specific errors, to which the Postmaster General interposes objection and denial as follows:

53 I

The finding of Division 5 of the Commission in this case "that the rates of pay now received by applicant for the transportation of mail, established in Railway Mail Pay, 144 I. C. C. 675, for railroads over 100 miles in length, are fair and reasonable", is not, on the face of its report and order a taking of property without just compensation, in violation of applicant's constitutionally guaranteed rights, as alleged by the applicant.

II

The Postmaster General denies that the finding of Division 5 quoted above in Item I is contrary to the Division's findings of fact—

(a) The sum of $4,945.00, stated by the applicant as "the deficit in net railway operating income from mail in 1931", is nowhere in the Commission's report given as the actual or accurate amount, but is

spoken of only as "*the computed deficit*" and as "*the indicated deficiency.*" [Italics supplied.]

(b) The Commission in its report stated that it would require an increase of 87.40 per cent in compensation, upon the basis
54 of 1931 operations, to meet the carrier's total claim for increased compensation which included the "*computed* deficit" of $4,945.00 in operating income and a full return of 5.75 per cent on the total investment in road and equipment allocated and apportioned to mail. It is not the policy or practice of the Commission to allow the full increase based upon a cost study, or to guarantee a full return of 5.75 per cent on the total investment. [Italics supplied.]

(c) "That the cost study * * * results in an approximately accurate ascertainment of the actual cost of service * * *" is not a correct restatement of the Commission's expression which is as follows: "The cost study is not considered to be an accurate ascertainment of the actual cost of service. It is an approximation to be given such weight as seems proper in view of all the circumstances. See Railway Mail Pay, supra."

III

The substance of the law quoted by applicant as "correctly" stated by Division 5 is not questioned by the Postmaster General except that the qualifying parenthetical expression "(and it alone)" does not appear in the report. Furthermore, the positive statement that "it found that under the cost study used and approved
55 in this and all prior cases * * * an increase in compensation of 'approximately' 87.40 per cent, upon the basis of 1931 operations, was required to meet operating expenses and yield a fair return upon investment devoted to carrying the mail", is an inaccurate summarization of the Commission's discussion of these features which did not amount to a finding of facts.

The Postmaster General again maintains that the Commission did not err in finding in this case "that the rates of pay now received by applicant for the transportation of mail, established in Railway May Pay, 144 I. C. C. 675, for railroads over 100 miles in length, are fair and reasonable."

Wherefore, it is submitted that the petition should be denied.

Respectfully submitted.

KARL A. CROWLEY,
Solicitor for the Post Office Department,
EDWIN A. NIESS,
Attorney, Post Office Department,
(For the Postmaster General).

JULY 24, 1933.

56 In United States District Court

In Equity, No. 207

[Title omitted.]

Acceptance of service

Filed Dec. 4, 1934

I, George B. McGinty, Secretary of the Interstate Commerce Commission, at Washington, D. C., do hereby accept service upon said Commission by the filing with me of a copy of the Petition in the above-entitled proceeding, on this 27th day of November 1934.

I hereby acknowledge receipt of notice that the above cause has been set for hearing at Augusta, Georgia, on Saturday, December 29, 1934, at 10 A. M.

(Sgd.) GEORGE B. MCGINTY,
Secretary, Interstate Commerce Commission.

[File endorsement omitted.]

57 In United States District Court

In Equity, No. 207

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD, PETITIONERS

v.

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION

Opinion and decree

Filed Jan. 23, 1935

This is a suit by W. V. Griffin and H. W. Purvis, Receivers of the Georgia & Florida Railroad, against the United States of America and the Interstate Commerce Commission to enjoin, set aside, amend, and suspend an order of such Commission of May 10, 1933, denying an application for increased compensation for the transportation of mail. The suit is brought under U. S. C. A., Title 28, Sections 41 (27 and 28) and 43–48.

No other facts were established or sought to be established than those set forth in such order of said Commission, a copy of which is annexed to petitioners' complaint, and it is therefore considered unnecessary and redundant to restate "Findings of Fact" as provided by Equity Rule 70½. The challenge is to the conclusion drawn from undisputed facts.

The facts developed in the "cost study" fully set forth in such order of the Commission were ascertained by the application of rules prescribed by the Commission. All parties to this controversy agree that a "cost study" is not and cannot be mathematically correct but is an approximation. Such "cost study" discloses among other facts that "There was (1) a deficit in net railway operating income from mail of $4,945.00 based upon 1931 operations." It further disclosed that as regards revenue: "The distribution of expense upon the space

ratios shows that the ratio for mail service was 102.79" or that
58 for every dollar applicants received for transporting mails they expended one dollar and 2.79 cents.

The fact that this railroad lost more money on other services rendered by it or that other railroads transported mail under similar, if not identical conditions, at a profit or that this railroad belonged in a certain classification established by such Commission, known as Class 1 railroads and that therefore it should be in accord with other railroads of such Class as to compensation as to mail, do not refute or impair the fact that the compensation allowed this railroad for the transportation of mail does not equal the cost of so doing.

While it is true that "For the purpose of determining and fixing rates or compensation hereunder the Commission is authorized to make such classification of carriers as may be just and reasonable and * * * fix general rates applicable to all carriers in the same classification", it can fix such rates only "Where just and equitable." 39 U. S. C. A., Section 549.

The transportation of mail by railroads is compulsory but they are "entitled to receive fair and reasonable compensation for such transportation and for the service connected therewith." 39 U. S. C. A., Section 541.

There is no attack upon the efficiency of the operation of this railroad. There is no charge of extravagance. The bald fact remains that this railroad is required in order to escape severe punishment (39 U. S. C. A., Section 563) to transport mail at a compensation fixed by such Commission and that such compensation does not pay the actual cost of service. This compensation is not in compliance with the duty on the United States to pay "fair and reasonable compensation" and is not "just and equitable."

59 It is therefore ordered and decreed:

(1) That said order of the Interstate Commerce Commission of May 10, 1933, is and has at all times been unlawful and that said order be set aside and annulled.

(2) Said Commission shall take such further action in the premises as the law requires in view of the annulment and setting aside of the said order of May 10, 1933.

Inasmuch as this court has not the authority to fix the compensation we do not deal with the question of what per cent. of return on the investment, if any, would be required to make the compensation fair and reasonable.

This 18th day of January, 1935.

SAMUEL H. SIBLEY,
United States Circuit Judge.
WM. H. BARRETT,
United States District Judge.
MERVIN UNDERWOOD,
United States District Judge.

[File endorsement omitted.]

60 Before Interstate Commerce Commission

Docket No. 9200

RAILWAY MAIL PAY

IN THE MATTER OF THE APPLICATION OF GEORGIA & FLORIDA RAILROAD FOR INCREASED RATES OF PAY

Petition for further hearing

March 12, 1935

61 *To the Interstate Commerce Commission:*

Now comes the Postmaster General of the United States and respectfully petitions the Interstate Commerce Commission for a reopening of the record in above-entitled proceeding for further hearing, and in that behalf respectfully shows:

1. The Georgia & Florida Railroad and its receivers W. D. Griffin and H. W. Purvis are engaged in the operation of a common carrier railroad for the transportation of passengers and property and for the transportation of United States mails in the states of Georgia and Florida, and are subject to the Interstate Commerce Act.

62 2. Under the provisions of the Act of July 28, 1916, 39 Stat. L. 412, the Interstate Commerce Commission was empowered and directed to fix and determine from time to time the fair and reasonable rates of compensation for the transportation of such mail matter by railroad common carriers and the services connected therewith and to prescribe the method or methods by weight or space or both or otherwise for ascertaining such rate or compensation.

3. The rates now received by the Georgia & Florida Railroad and its receivers for the transportation of said United States mail and for the service connected therewith are those prescribed by the Interstate Commerce Commission in its order dated July 10, 1928, in a proceeding entitled Railway Mail Pay, Docket No. 9200, 144 I. C. C. 675.

4. That said rates for the transportation of the United States mail and the service connected therewith as prescribed by

63 the Interstate Commerce Commission and its order aforesaid have been the subject of petitions filed before the Interstate Commerce Commission on April 1, 1931, by the Georgia & Florida Railroad and its receivers and following the institution of further proceedings were reexamined and said rates prescribed as reasonable by the Interstate Commerce Commission in its order dated May 10, 1933, Railway Mail Pay, 192 I. C. C. 779.

5. That whereas the rates now being received by the Georgia & Florida Railroad and its receivers for the transportation of the United States mail and other services connected therewith have been made the subject of litigation by said railroad and its receivers

through the filing of a petition in equity in the District Court of the United States for the Augusta Division of the Southern District of Georgia, and whereas said court by its order of the 18th day of January 1935, has undertaken to set aside the order
64 of the Interstate Commerce Commission of May 10, 1933, thereby reopening the question as to what constitutes fair and reasonable compensation for the transportation of the United States Mails and the service connected therewith by said Georgia & Florida Railroad and its receivers.

Wherefore, your petitioner prays that the Commission enter an order reopening the proceeding for further hearing for the purpose of affording the parties an opportunity to point out any deficiencies in the present record, and submit additional evidence, and that the Commission enter such further order or orders as the Commission may consider proper in the premises.

Karl A. Crowley,
KARL A. CROWLEY,
Solicitor of the Post Office Department,
William C. O'Brien,
WILLIAM C. O'BRIEN,
Attorney, Post Office Department
(For the Postmaster General).

MARCH 12, 1935.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by mailing a copy thereof properly addressed to each other party.

Dated at Washington, D. C., this 12th day of March 1935.

William C. O'Brien,
WILLIAM C. O'BRIEN,
Attorney, Post Office Department.

66 Before Interstate Commerce Commission

No. 9200

RAILWAY MAIL PAY

IN THE MATTER OF THE APPLICATION OF THE GEORGIA & FLORIDA RAILROAD FOR INCREASED RATES OF PAY

Order reopening proceeding

March 12, 1935

It appearing, That the Commission, Division 5, entered its order in this proceeding on May 10, 1933, which established the fair and reasonable rates of pay to be received by the Georgia & Florida Railroad for transporting mail and for services connected therewith on and after April 1, 1931:

It further appearing, That upon petition of the said railroad the order of commission was annulled and set aside by the District Court of the United States for the Augusta Division of the Southern District of Georgia, by its order entered January 18, 1935.

Upon further consideration and for good cause appearing therefor

It is ordered, That this proceeding be, and it is hereby, reopened for further hearing, upon the Commission's own motion.

By the Commission.

[SEAL] (S.) GEORGE B. MCGINTY, *Secretary.*

67 In United States District Court

[Title omitted.]

In Equity, No. 228

Acceptance of service

Filed July 10, 1936

I, George B. McGinty, Secretary of the Interstate Commerce Commission, at Washington, D. C., do hereby accept service upon said Commission by the filing with me of a copy of the Petition in the above-entitled proceeding on this 2nd day of July, 1936.

(S.) GEORGE B. MCGINTY,
Secretary, Interstate Commerce Commission.

[File endorsement omitted.]

68 In United States District Court for the Augusta Division of the Southern Judicial District of Georgia

In Equity, No. 228

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD, PETITIONERS

vs.

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, DEFENDANTS

Motion to file supplemental bill

Filed June 20, 1936

To the Honorable the Judges of Said Court:

Come now W. V. Griffin and H. W. Purvis, Receivers for Georgia & Florida Railroad, and respectfully represent unto this Court as follows:

I

Your petitioners are the petitioners in the original bill in this cause, which was brought against the United States of America and the Interstate Commerce Commission.

II

Your petitioners present herewith a supplemental pleading which they desire to file in this cause, and which supplemental pleading is attached hereto. The said pleading sets out matters and things which have occurred in the subject matter of this litigation since the order of this court entered therein on the 18th day of January, 1935.

69 III

Your petitioners pray that a rule nisi issue requiring the defendants to show cause, if any they have, why your petitioners should not be allowed to file said supplemental pleading; and that the said supplemental pleading be allowed and filed and that hearing proceed therein; and that the relief sought therein be granted.

Respectfully submitted.

W. V. GRIFFIN AND H. W. PURVIS,
Receivers for Georgia & Florida Railroad.
By (Sgd.) HULL, BARRETT & WILLINGHAM,
General Counsel, Augusta, Georgia.
(Sgd.) MOULTRIE HITT, G. KIBBY MUNSON,
Commerce Attorneys, Washington, D. C.

[File endorsement omitted.]

70 In United States District Court

[Title omitted.]

In Equity, No. 228

Order convening three-judge court

Filed Dec. 10, 1936

Original Bill No. 207, involving substantially the same controversy as here involved, was filed in this court on March 2, 1934, and a decree in said cause was entered by a three-judge statutory court on January 18, 1935.

Following the aforesaid decree of January 18, 1935, the cause was re-opened by the Interstate Commerce Commission, and on the 4th day of February 1936, the Interstate Commerce Commission made its order in such re-opened proceeding.

Thereupon this supplemental bill was filed, attacking the last mentioned order of the Interstate Commerce Commission as being unlawful and void for the reasons therein alleged, and renewing all of the prayers of said original bill of March 2, 1934, and praying that said order of the Interstate Commerce Commission of February 4, 1936, be perpetually set aside, suspended and annulled.

Service of this supplemental bill has been acknowledged by the United States and by the Interstate Commerce Commission and answers have been filed, and said cause is now for hearing.

It is, therefore, considered, ordered, adjudged and decreed as follows:

That a Three-Judge Court, as provided by the Act of June 18, 1910 (36 Stat., L. 539), be, and is hereby, organized, and this court hereby calls to his assistance to hear and determine said application for relief Honorable Samuel H. Sibley, of the Circuit Court of Appeals for the Fifth Circuit, and Honorable E. Marvin Underwood, United States District Judge for the Northern District of Georgia; and the hearing in said cause is hereby fixed for the 30th day of December 1936, at the United States court room at Augusta, Georgia, at ten o'clock A. M.

This December 10th, 1936.

WM. H. BARRETT,
United States District Judge,
Southern District of Georgia.

[File endorsement omitted.]

71 In United States District Court

[Title omitted.]

In Equity, No. 228

Supplemental pleading to bill in equity

Filed June 20, 1936

To the Honorable the Judges of said Court:

W. V. Griffin and H. W. Purvis, Receivers for the Georgia & Florida Railroad, respectfully complaining, aver as follows:

I

Heretofore, to-wit, on the 2nd day of March 1934, your petitioners filed in this court an original bill against the United States of America and the Interstate Commerce Commission, seeking in said bill to restrain and enjoin the enforcement of an order of the Interstate Commerce Commission, therein described, dated the tenth day of May 1933, in a proceeding begun upon the petition of your petitioners and designated as "Railway Mail Pay, In the Matter of the Application of the Georgia & Florida Railroad Company for Increased Rates of Pay", being a part of No. 9200 on the formal docket of the said Commission. The United States of America and the Interstate Commerce Commission appeared by counsel and pleaded to the said cause. At the trial of said cause the entire record covering the hearing and orders by the Interstate Commerce Commission was introduced in evidence.

72 Thereafter, this Court, presided over by three Judges, organized in the manner provided by law, heard argument, and on the eighteenth day of January 1935, filed its opinion in said case and entered its order or decree enjoining the enforcement of the order of the Interstate Commerce Commission complained of. In its opinion and order, entered as aforesaid on the eighteenth day of January 1935, this Court found the following:

(a) That no other facts were established or sought to be established than those set forth in the report and order of said Commission, a copy of which was annexed to petitioners' complaint, and it was therefore considered unnecessary and redundant to re-state "Findings of Fact" as provided by Equity Rule 70½; petitioners' challenge being to the conclusion drawn from undisputed facts.

(b) That the facts developed in the "cost study" fully set forth in such report and order of the Commission were ascertained by the application of rules prescribed by the Commission.

(c) That all parties to the controversy agreed that a "cost study" is not and cannot be mathematically correct, but is an approximation.

(d) That such "cost study" discloses among other facts that "there was (1) a deficit in net railway operating income from mail of $4,945.00 based upon 1931 operations."

(e) That such "cost study" further disclosed that as regards revenues: "The distribution of expense upon the space ratios shows that the 'ratio for mail service was 102.79', or that for every dollar applicants received for transporting mails they expended one dollar and 2.79 cents."

73 (f) That the fact that this railroad lost more money on other services rendered by it or that other railroads transported mail under similar, if not identical conditions, at a profit, or that this railroad belonged in a certain classification established by such Commission, known as Class I railroads, and that therefore it should be in accord with other railroads of such class as to compensation as to mail, does not refute or impair the fact that the compensation allowed this railroad for the transportation of mail does not equal the cost of so doing.

(g) That while it is true that "for the purpose of determining and fixing rates or compensation hereunder the Commission is authorized to make such classification of carriers as may be just and reasonable and * * * fix general rates applicable to all carriers in the same classification", it can fix such rates only "where just and equitable", citing 39 U. S. C. A., Section 549.

(h) That the transportation of mails by railroads is compulsory, but they are "entitled to receive fair and reasonable compensation for such transportation and for the service connected therewith", citing 39 U. S. C. A., Section 541.

(i) That there was no attack upon the efficiency of the operation of this railroad, and there was no charge of extravagance.

(j) That the bald fact remains that this railroad is required, in order to escape severe punishment (39 U. S. C. A., Section 563), to transport mail at a compensation fixed by such Commission, and that such compensation does not pay the actual cost of service.

(k) That such compensation is not in compliance with the duty on the United States to pay "fair and reasonable compensation", and is not "just and equitable."

74 Thereupon, this Court entered its injunction order aforesaid, in the words following:

"It is therefore ordered and decree:

"(1) That said order of the Interstate Commerce Commission of May 10, 1933, is and has at all times been unlawful and that said order be set aside and annulled.

"(2) Said Commission shall take such further action in the premises as the law requires in view of the annulment and setting aside of the said order of May 10, 1933.

"Inasmuch as this court has not the authority to fix the compensation we do not deal with the question of what per cent of return on the investment, if any, would be required to make the compensation fair and reasonable."

II

That, thereafter, pursuant to the terms of the order of this Court, above quoted, the Interstate Commerce Commission, by its order of March 12, 1935, reopened its said proceedings in said "Docket 9200, Railway Mail Pay, In the Matter of the Application of the Georgia & Florida Railroad for Increased Rates of Pay."

That a hearing was had on the twenty-fourth and twenty-fifth days of June 1935.

That at said hearing no new or other cost study was offered or proposed, and no attempt was made by the Post Office Department or petitioners to dispute the basic facts of said cost study; and no evidence was offered or received in contradiction of the evidence previously taken in the original proceedings. The character of the evidence which was received in this further hearing is described by the Commission in its report and order of February 4, 1936 (214 I. C. C. 66), as follows:

"At the further hearing the Post Office Department, hereinafter called the department, put in evidence the detailed rules governing separation of operating expenses between freight service and passenger service in the study of expense for transporting mail on the Georgia & Florida based on a test period of 28 days, September 28 to October 25, 1931. Space and other data included in that study are described in the prior report. No additional tests have been made.

* * * * * * *

75 "* * * The methods employed for the initial division between freight and passenger were explained by the department at the further hearing. The department also showed the result of applying the methods to the primary operating accounts for the year 1931. Additional analyses of the data were furnished by the department and the applicant."

The evidence for the Post Office Department was addressed only to the point that the cost study of 1931 was based on formulas prescribed by the Interstate Commerce Commission, and not upon direct segregation and exact allocation of each separate item of investment and expense; and not only was no attempt made to suggest any other way to allocate the expense, or to contend that, by any other method, the result would have been any different, or would be more advantageous to one side than to another, but to the contrary testimony for the Post Office Department was that it was the most accurate method of determining costs that they could devise.

III

That, thereafter, following the filing of briefs and the hearing of oral argument, the Interstate Commerce Commission, on February 4, 1936, rendered its "Report of the Commission on Further Hearing" (214 I. C. C. 66), reiterating the same conclusion as before, that the rates of mail pay for the Georgia & Florida Railroad shall be the same as established heretofore for railroads over 100 miles in length, and entered its order of the same date, which Report and Order are attached hereto, marked "Exhibits D and E", with the same effect as if fully set forth in the body hereof.

IV

Your petitioners aver that the said order of the Commission, entered February 4, 1936, is for each and all of the reasons set out in the original bill filed in this case, and for the reasons hereinafter set forth, unlawful, unjust, and unreasonable for that—

(a) It disregards and discards the facts found by this
76 Court in this case.

(b) It disregards and departs from the law applicable to this case as declared by this Court, in that it does not provide that petitioners should receive fair and reasonable compensation for the transportation of mail and for the service connected therewith.

(c) It appears from said report upon rehearing that the Commission, with no new evidence of cost of transporting the mails before it, changed its findings of fact contrary to the findings of fact heretofore made by said Commission and contrary to the findings of this Court, to conform to the Commission's erroneous conclusion in said prior report (Exhibit A to the original petition filed herein) and the Commission's formal order (Exhibit B to the original petition filed herein), which this Court set aside and annulled.

(d) The conclusion of the Commission in said report upon rehearing that the rates of mail pay heretofore prescribed for railroads over 100 miles in length, currently being received by petitioners for the transportation of mail matter, were fair and reasonable, is contrary to the Commission's findings of fact in its previous report and the findings of this Court.

(e) The order of February 4, 1936 (attached hereto as Exhibit D), entered upon rehearing, that the rates of pay for the transportation of mail matter heretofore prescribed for railroads over 100 miles in length, currently being received by your petitioners, be established as fair and reasonable to be received by your petitioners for the transportation of mail matter on and after April 1, 1931, is contrary to the Commission's said earlier findings of fact.

(f) The finding of the Commission in said report upon rehearing that the rates of mail pay heretofore prescribed for railroads
77 over 100 miles in length, currently being received by your petitioners for the transportation of mail matter, were fair and reasonable, is unsupported by, and contrary to, the evidence.

(g) Said order entered on February 4, 1936, that the rates of pay for the transportation of mail matter heretofore prescribed for railroads over 100 miles in length, currently being received by your petitioners, be established as fair and reasonable to be received by your petitioners for the transportation of mail matter on and after April 1, 1931, is unsupported by, and contrary to, the evidence.

(h) The rates of pay for the transportation of mail matter established by said order of February 4, 1936, heretofore prescribed for railroads over 100 miles in length, currently being received by your petitioners, are not fair and reasonable, and said order is contrary to the requirements of the Act of July 28, 1916, Chapter 261, Section 5, that the Commission fix and determine the fair and reasonable rates and compensation for the transportation of mail matter by railway mail carriers, and is therefore contrary to law and void.

(i) Said order of the Commission of February 4, 1936, and every part thereof, is, by reason of the premises, unlawful and void, because:

(1) The same is and was made in violation of said Act of July 28, 1916, Chapter 261, Section 5.

(2) The same is contrary to the undisputed evidence in said proceedings.

(3) The action of the Commission, evidenced by said report and order, is arbitrary, in that such action is not only not supported by the evidence, but the same is contrary to the undisputed evidence before it.

(4) The action of the Commission, evidenced by said report and
78 order, is arbitrary, in that the Commission has arbitrarily reversed its previous findings of fact, without new evidence to sustain such reversal, so as to support a new order identical in terms with the previous order of the Commission which was set aside and annulled by this Court.

(5) The Commission has erred in said report and order in applying the law to the facts.

(6) The carrying out of said order against petitioners deprives them of their property without due process of law and will take the private property of petitioners for public use without just compensation, in contravention of the Fifth Amendment to the Constitution of the United States.

V

PRAYER FOR RELIEF

Your petitioners waive discovery under oath of the defendants, and pray as follows:

(a) Your petitioners renew the prayers contained in their original bill;

(b) That they be allowed to file this supplemental pleading;

(c) That a day be fixed for hearing this cause on the original bill and this supplemental pleading;

(d) That after due hearing this Court Adjudge, Order, and Decree that said order of the Commission of the fourth day of February 1936, is and has at all times been unlawful, and wholly void, and that said order be perpetually set aside, suspended, and annulled;

(e) That this Court Adjudge, Order, and Decree that the Commission reopen and reconsider said proceeding designated as "Railway Mail Pay, In the Matter of the Application of the Georgia & Florida Railroad Company for Increased Rates of Pay", being a part of No. 9200 on the formal docket of the Commission, and
79 determine the fair and reasonable rates to be received by petitioners for transportation of the mails on and after said April 1, 1931, in accordance with the evidence and the facts found by this Court.

(f) That your Petitioners may have such other and further relief in the premises as to equity and justice may appertain and as may be deemed by this Honorable Court to be adequate and proper under the circumstances.

W. V. GRIFFIN AND H. W. PURVIS,
Receivers for Georgia & Florida Railroad.
By (S.) H. W. PURVIS, *Receiver.*

HULL, BARRETT & WILLINGHAM,
General Counsel,
Augusta, Georgia.

MOULTRIE HITT,
G. KIBBY MUNSON,
Commerce Attorneys,
420 Union Trust Building, Washington, D. C.

80 [*Duly sworn to by W. H. Purvis, jurat omitted in printing.*]

81 *Exhibit D to supplemental bill*

20974

Interstate Commerce Commission

82 No. 9200

RAILWAY MAIL PAY

IN THE MATTER OF APPLICATION OF GEORGIA & FLORIDA RAILROAD FOR INCREASED RATES OF PAY

Submitted January 9, 1936. Decided February 4, 1936

Upon further hearing rates paid applicant for transporting the mail found fair and reasonable. Prior reports, 192 I. C. C. 779 and 144 I. C. C. 675

Moultrie Hitt and G. Kibby Munson for applicant. Karl A. Crowley and William C. O'Brien for Postmaster General.

Report of the Commission on Further Hearing

By the Commission:

Exceptions were filed by applicant, Georgia & Florida Railroad, to the report proposed by the examiner and the proceeding was orally argued.

This proceeding, the prior report in which was made by division 5 in 192 I. C. C. 779, was reopened upon our own motion after the United States District Court, Augusta Division, Southern District of Georgia, in a suit brought by applicant, set aside the order of division 5. That order prescribed as fair and reasonable the rates now paid applicant for transporting the mail.

Service is furnished by applicant in 15-foot railway post-office apartment units at a rate of 14.5 cents per mile and in 3-foot closed-pouch units at 4.5 cents per mile. Those rates were prescribed by us in Railway Mail Pay, 144 I. C. C. 675, after a general reexamination of the rates of pay for all railway common carriers.

At the further hearing the Post Office Department, hereinafter called the department, put in evidence the detailed rules governing separation of operating expenses between freight service and passenger service in the study of expense for transporting mail on the Georgia & Florida based on a test period of 28 days, September 28 to October 25, 1931. Space and other data included in that study are described in the prior report. No additional tests have been made.

Passenger-car miles in 1934 were 37 percent less than in 1931. Freight-car miles decreased 5.3 percent. Car-foot miles of mail service decreased 7.4 percent, due for the most part to the
83 abandonment of a branch line by applicant. Annual mail compensation decreased $7,561, approximately 21 percent.

At the prior hearing the parties submitted the final results obtained from the separation of expenses between freight service and passenger service. The amount computed for the latter was apportioned among services rendered in passenger trains, passenger proper including baggage and miscellaneous, express, and mail. The methods employed for the initial division between freight and passenger were explained by the department at the further hearing. The department also showed the result of applying the methods to the primary operating accounts for the year 1931. Additional analyses of the data were furnished by the department and the applicant.

The main question presented by the department at the further hearing is the extent to which the cost study discloses the cost of performing mail service. The basic operating data representative of actual operations by applicant are furnished by the space study. The method, called plan 2, used by the parties in distributing space in combination and mixed-traffic cars is the same as that employed in prior mail-pay proceedings. The department, as in those cases, presented results obtained by applying two other plans, termed plans 1 and 3, which, it contends should be given consideration in determining reasonable rates of mail pay, particularly where, as here, the operations of a single railroad are under reexamination. Those plans were described in Railway Mail Pay, 144 I. C. C. 675, 681, 689, and will not be further discussed here.

Plan 2 allocated directly to each class of service the car-foot miles of service in cars operated exclusively for each class. Car-foot miles of service in passenger and mail apartments which are parts of cars partitioned from the remainder of the car were also directly allocated to the respective services. Car-foot miles of occupied space in the remainder of the apartment car, referred to as the baggage end, and in mixed-traffic cars which have no separate apartments, were allocated to the service occupying such space. Unoccupied space in the baggage end of combination cars and in mixed-traffic cars was apportioned among passenger, express, and mail services in proportion to the occupied, or used, space in such cars. Space authorized for mail was considered to be the occupied or used mail space regardless of the extent it was actually used. Space occupied by passenger and express services in such cars was measured at certain points on the railroad where the load carried for each service was considered to represent an average for the whole route. Neither the first nor the last part of the run was taken. The average space thus measured was used in computing the total car-foot miles occupied by each such service for the run of the car. Every car was measured on the car runs at least once, and in some instances more, where the runs were long.

84

In the test period, 3,045,704 car-foot miles were operated in passenger-train service. The distribution of this made by applicant to the three services, in the manner described, resulted in final space ratios as follows: Passenger proper, including baggage and miscel-

laneous, 78.05 percent; express 6.92 percent; and mail 15.03 percent. The total expenses allocated and apportioned to the passenger-train service as a whole for the year 1931 was $315,272. Of this, $1,295, or 0.41 percent, was directly assigned to passenger service. The remainder, $313,977, was regarded as expense common to the three services and was apportioned among them by applying the space ratios of the test period. In this distribution, 15.03 percent, or $47,191, was apportioned to mail service.

Investment in road and equipment allocated and apportioned to passenger-train service by applicant for the year 1931 was $3,554,377. The amount apportioned to mail by using the mail space ratio of 15.03 percent was $534,223. Applicant computes a return on this amount, at 5.75 percent, of $30,718. The expense plus the stated return equals $77,909. The mail revenue for 1931 was $35,728. The additional revenue required based upon these figures would be $42,181, or an increase of 118 percent.

The computations rest upon the space ratios of the test period applied to the expenses of the entire year of 1931. The department showed that the car-foot-mile figures of the test period extended to one year were only 82.78 percent of the actual car-foot miles operated in that year. The car-foot-mile figures were obtained from the car-miles actually operated in that year as reported by applicant, multiplied by the average length of each class of car operated. The actual car-foot miles of mail service operated in 1931 and paid for were deducted from the total car-foot miles and the balance was apportioned among passenger, express, and unused space upon the ratios of those services and of unused space obtained in the test period, no other ratios or operating data being available. As a final result of this adjustment the department derived, under plan 2, a space ratio for mail of 12.96 percent instead of 15.03 percent.

The application of a mail-space ratio of 12.96 percent to the computed expenses of the passenger-train service resulted in a computed mail expense of $40,673, or $6,518 less than the amount first computed. This adjustment is not contested by applicant.

The department's exhibits showed applicant's investment in road and equipment allocated and apportioned to passenger-train
85 service as $3,536,834, or $17,534 less than applicant's figures. Under plan 2 this was apportioned among the three services upon the ratios of total railway operating expenses allocated and apportioned. These ratios were substantially the same as the space ratios, the mail-expense ratio, for example, being 12.90 percent and the space ratio 12.96 percent. The total mail-service investment thus derived was $457,082. A return of 5.75 percent upon this sum amounted to $26,282 which, with the computed expense, brought the total claim for increased compensation to $31,227, to meet which would require an increase of 87.4 percent in the rates now paid.

The mail operating expenses resulting from the department's adjusted figures totaled $36,725. Dividing that amount by the mail operating revenue of $35,728 produces a mail operating ratio of

102.79. The court, which set aside the prior order herein, referred, among other things, to that ratio. Applicant on brief in the instant proceeding in discussing the court's opinion states as follows:

"It may be well to emphasize that it was particularly pressed upon the Court's attention by counsel for both sides * * * that the cost study did not purport to be mathematically exact, so the Court's language is not properly to be discounted by any impression that the Court was not apprised of the nature of the cost study. It seems to the applicant quite obvious, both from the context of the Court's opinion, and the arguments to the Court, that the Court meant that, taking it for exactly what it was, the cost study indicated that for every dollar applicants received for transportation of mail they expended one dollar and 2.79 cents. The Court's finding was certainly an adjudication that the rates of pay heretofore established were totally inadequate, and is authority for further consideration by the Commission and the establishment of substantially increased rates."

There is implicit in the statement quoted, and in the corresponding portion of the opinion referred to, the assumption that if the department discontinues mail service on applicant's trains the applicant will thereby be saved the expenditure of $1.0279 for every dollar of revenue it thus loses. Considering the character of the expenses included in the study it is clear that no such saving could be made. The importance of the operating-ratio figure has been overemphasized. Relative costs derived from a series of studies of expenditures for operations common to a number of services cannot be converted into absolute costs by using a single-figure relation derived from such studies.

The cost computed in the manner described is a hypothetical cost and not an actual cost, and is not necessarily conclusive as applicant contends. In other mail-pay proceedings, in which space authorized and paid for was found to be the space that should be charged to mail in cost studies similar to that here, consideration was given to other factors as well, such as the amount and
86 character of the unused space reported as operated (Railway Mail Pay, 85 I. C. C. 157, 170, 123 I. C. C. 33, 39); the actual space occupied by mail, as distinguished from authorized space, determined by the mail load carried, based upon a count of bags and of packages outside of bags, and, in some instances, by the weight (Railway Mail Pay, 95 I. C. C. 493, 500, 511, 120 I. C. C. 439, 446); comparisons with compensation received from other services in passenger-train cars (Railway Mail Pay, 144 I. C. C. 675, 706); comparisons with freight rates (Railway Mail Pay, 144 I. C. C. 675, 705, 151 I. C. C. 734, 742); comparisons per car-mile and per car-foot mile of the computed cost of mail service and the revenue from authorized mail service with the computed cost of corresponding units in passenger-train service as a whole (Railway Mail Pay, 144 I. C. C. 675, 699); and the character of the service performed in connection with transporting the mail (Railway Mail Pay, 56 I. C. C. 1, 8, Electric Railway Mail Pay, 58 I. C. C. 455, 464, 98 I. C. C. 737, 755).

From the relation of the test-period space data to the actual car-miles operated in the year 1931, it is clear that the test-period ratios cannot be applied to the total operating expenses of that year without an arbitrary adjustment to reflect the actual operations for the year. Other evidence at the further hearing discloses also that the space data of the test period cannot be accepted as an accurate guide to an ascertainment of cost, particularly in connection with the operation of the 15-foot railway post-office apartment.

At the further hearing the department showed that applicant operated and continues to operate a 30-foot railway post-office apartment to fill the authorization for a 15-foot apartment. In the space study the extra 15 feet of space was added to unoccupied space in the combination car and apportioned to all services, including mail, upon the basis of space used. The operation of the 30-foot apartment is for applicant's convenience. It results in the operation of an amount of unused space equal to the authorized 15-foot apartment and thus increases the amount of space and the expense apportioned to mail. The apartment car is operated between Augusta and Valdosta, Ga., 222.9 miles daily in each direction. In the year 1931 a 15-foot railway post-office apartment service was authorized daily except Sundays between Augusta and Tennille, Ga., 83.3 miles. The latter service was discontinued in October 1934, due to the abandonment of the branch line between McAdoo and Tennille Junction, Ga. A 15-foot mail apartment of standard size and specifications provides storage space of approximately 3.2 linear feet, sufficient to carry 50 sacks of mail. In a standard 15-foot apartment no restriction is placed upon the number that may be carried, if the
87 space permits more. Where, however, an oversized apartment is furnished, as in the case here, the use of the 15-foot authorized space is limited to 50 sacks in the storage portion. The mail clerks are required to keep record of all sacks and packages handled when the oversized apartment is furnished, but not when a 15-foot apartment is furnished. The use of distribution facilities in the apartment is limited to the amount provided in 15-foot apartments. The department does not, and may not, make any use of the extra 15 feet furnished. An inspection of the 15-foot apartment service made in March 1935 disclosed that the distribution facilities and the storage space used did not average over 50 percent of the space available in such a unit. There was no evidence as to the average use in the test period or in the year 1931.

The car in which the 30-foot apartment is operated is 55 feet in length. Space outside the apartment is used for baggage, express, and miscellaneous traffic. In the space study, the 15 feet of unused space in the oversize mail apartment was added to the total unused space in the combination and mixed-traffic cars and apportioned among mail, express, and passenger services in proportion to the space used in such cars. This was done, apparently, upon the theory that if the apartment had been changed to a 15-foot apartment, the

remainder of the 30-foot apartment would have been unused and that, therefore, the mail would have been charged, in the space study, with the same proportionate amount. The assumption, however, rests upon the further assumption that the average measured space reported as used by express and by baggage and miscellaneous services would have been the same.

The total space operated in combination cars in the test period, using the adjusted figures computed by the department, was 1,481,016 car-foot miles. Used space reported in the manner previously described totaled 826,703, and unused space 654,313 car-foot miles. The total unused space constituted 44 percent of the total operated. The authorized mail space was 266,175, which was 32.19 percent of the total space in combination cars reported as used. Upon this ratio, mail was apportioned 210,623 car-foot miles of the unused space. Of the total space allocated and apportioned to mail, 44 percent resulted from apportionment of unused space. The amount of unused space due to the operation of the 30-foot apartment in lieu of a 15-foot apartment was 247,101 car-foot miles and the share of this apportioned to mail was 79,541 car-foot miles. If this amount were eliminated from the total apportioned to mail and assigned to the other services upon the assumption it was and is unnecessarily operated insofar as mail is concerned, an assumption justified upon this record, the mail-space ratio would be reduced to 10.79 percent and the computed mail expense would be reduced to
88 $34,017 or $1,711 less than the revenue. This is 27 percent less than the expense computed from the unadjusted test-period data and 16 percent less than that computed by the department upon its adjusted data. The analysis of the space data, its adjustment to reflect operations for a full year, the adjustment of the space ratio upon the assumption that the operation of an oversize apartment causes the operation of unused space of which no part should be charged to mail, show that the computed cost is not an actual but a hypothetical cost.

The method by which total expense for passenger-train service was computed also results in a hypothetical and not an actual cost. It was obtained from direct allocations and from a series of apportionments of expenses common to freight and passenger services. The methods are the same as those provided in our rules governing separation of such operating expenses on large steam railroads.

The total amount of railway operating expenses thus charged to the passenger service was $284,667. This is derived from a large number of separate expense items. One or two examples will illustrate the methods used in computing it.

Track expense for passenger service, $64,978, made up of some 15 items, includes maintenance of tracks in yards and in road service. Maintenance in yards with separate switching service used in common by passenger and freight was divided in proportion to the switching-locomotive miles for each service in such yards. The yard

switching-locomotive miles were computed at the rate of 6 miles per hour for the time actually engaged in each service. Maintenance expense of all other tracks was apportioned according to the proportion of expense computed for each service in the division of expense in the item for fuel used for train locomotives. The latter expense item for the most part is assigned directly to each service for the fuel consumed.

Maintenance-of-equipment expenses, $58,725, was allocated directly according to the assignment of locomotive and cars, where exclusively assigned to one service. The common expenses were apportioned. Where locomotives were not run exclusively in one service the expense for repairs of each locomotive or class was divided according to the mileage operated in each service. Repair expenses for yard locomotives were divided according to the freight and the passenger yard switching-locomotive miles. Common expense under the item for superintendence was apportioned according to freight and passenger proportions of the aggregate of all primary accounts in the general account for maintenance of equipment, omitting common expenses in certain accounts which were apportioned upon the same basis as common expense for superintendence.

Transportation (rail-line) expense allocated and apportioned to passenger service totaled $123,469. The largest single item
89 in this was for fuel for train locomotives, which for the most part was directly assigned to each service according to use. The item for train engine men, $20,450, was also assigned directly. Common expenses in mixed-train service were apportioned on the basis of car-miles operated in mixed trains, and other common expenses on the basis of the direct assignments.

Expenses for trainmen and train supplies, $23,219, were similarly allocated and apportioned. Station-employee expenses, $16,807, were directly allocated where possible and the balance was apportioned according to the percentages used to divide common expenses in the item for "superintendence, transportation, rail line." Common expenses in the latter item were apportioned according to freight and passenger proportions of the aggregate of all primary accounts in the general account for transportation, rail line, omitting certain accounts in which common expenses were apportioned upon the percentages derived from the superintendence account.

Another element of doubt, as to the reliability of the space study as a basis for determining the cost of service, arises from treating the 3-foot units of authorized mail space as the full space used by mail, regardless of the mail load carried. In other mail-pay proceedings the authorized mail space was also treated as the mail space used but the actual mail load carried was also given consideration in the final ascertainment of reasonable compensation. See Railway Mail Pay, 95 I. C. C. 493, 512, 144 I. C. C. 675, 696, 706, 151 I. C. C. 734, 743. The full capacity of a 3-foot unit, which contains 121.5 cubic feet, is 56 bags of mail or the equivalent in packages not carried in

bags. The largest number carried during the test period in the 3-foot units on the various trips, including all routes, ranged from 6 to 27 bags, except for service on Sundays only between Tennille and Keysville, Ga., where 61 was the maximum. The average of the maximum loads, however, on all trips, ranged from 2 bags on the Broxton-Douglas route to 20 bags on the Midville to Statesboro, via Graymont route, except on trips between the two points above named, where the maximum was 55 bags. The minimum number carried on any trip ranged from 1 to 6. The average minimum load ranged from one bag on the Tennille-Keysville route to nine bags on the Douglas-Broxton route. The space furnished to meet authorizations for 3-foot units is not set aside for exclusive mail use. The mail sacks and packages are carried with the baggage and express and may actually use more or less than 3 linear feet of car length, depending upon the number and the arrangements for loading and unloading the mail, baggage, and express en route.

The methods used in this, as in all prior railway-mail pay proceedings, to ascertain and compute the proportions of operating
90 expense and the separations into expenses for freight service and passenger service, respectively, show that the portion assigned to either service may change due solely to changes in the other. The portion assigned to mail may also change with changes in the passenger and express services, even where there is no change in the mail service. The extent will depend upon the amount of change in the passenger-train expense and the change in the space ratios.

A comparison of revenue received by applicant from the three services rendered in passenger-train service shows that the mail service pays considerably more for equivalent units of service than passenger proper, or express. The units used in this comparison are derived from the space ratios and include proportionate amounts of unused space, without considering the amount and character of such space or the load carried in the 3-foot units.

In passenger-train service operations in 1931, applicant received $35,728 from mail service for 12.96 percent of the total car-foot miles of service, $7,593 from express for 6.69 percent, and $36,322 from passenger proper for 80.35 percent. Revenue per car-foot mile, based upon the above percentages of space, from mail was 5.75 mills, from express 2.36 mills, and from passenger proper 0.94 mills. Upon a computed unit-of-service basis, the amount paid by the department for carrying mail was about two and one-half times as much as the amount received by applicant from carrying express and about six times as much as the amount received for passenger service proper. Mail revenue from 12.96 percent of the total car-foot miles operated was 44.86 percent of the total passenger-train service revenues, express revenue from 6.69 percent of the car-foot miles was 9.53 percent of the total, and passenger revenue proper from 80.35 percent of the car-foot miles was 45.61 percent of the total.

The foregoing computations are derived solely from the space and revenue studies. They show that in relation to the other services the department pays a considerably greater amount per car-foot mile of service than the carrier receives from other services rendered in the same trains.

The average computed expense per car-foot mile allocated and apportioned to passenger-train service as a whole, including mail and express, based on operations in 1931, was 0.6573 cent. The corresponding figures for passenger, express, and mail, after unused space was assigned to each upon the basis of their space ratios, were respectively 0.658, 0.655, and 0.654 cent. This shows that the expense per car-foot mile assigned in the study to each service, after apportionment of unused space, approximated the average expense per car-foot mile assigned to passenger service as a whole. The aver-

91 age revenue per car-foot mile of authorized mail service was 1.0297 cents which was 56 percent in excess of the average computed expense for passenger-train service as a whole for all space operated.

Investment in road and equipment allocated and assigned to passenger-train service as a whole in the same study was $3,536,834. A return on this, based on 5.75 percent as used by applicant, would be $203,367. The car-foot miles of service in the year 1931 based on the department's adjusted figures amounted to 47,965,379. The average return on investment per car-foot mile operated, therefore, would be 0.424 cent. The average computed expense per car-foot mile plus this return would be 1.0813 cents. The return at the same rate computed for the mail service as previously shown was $26,282. On the basis of 6,216,313 car-foot miles allocated and apportioned to mail for the year 1931, the return would be 0.422 cent per car-foot mile. This return, plus the apportioned expenditures, amounts to 1.076 cents. Revenue per car-foot mile from authorized mail space was 1.0297 cents which is 0.516 cent or 4.7 percent less than the hypothetical expense per car-foot mile of passenger-train service as a whole plus the stated return.

Comparison of the revenue per authorized car-foot mile of mail service with the average expense plus the stated return for passenger service as a whole, and with the similar figure for mail service, does not take into consideration any distribution of mail revenue to unused space apportioned to the mail. Whatever distribution be made, the amount assigned to mail service would decrease the mail revenue per car-foot mile. The comparison is made, however, in view of the small amount of mail carried in the authorized units. It indicates that revenue per car-foot mile from the authorized space approaches quite closely the full hypothetical cost per car-foot mile plus the stated return both for mail service and for passenger-train service as a whole.

The record shows that mail in the 15-foot apartment service was handled en route by post-office clerks, and that mail in the 3-foot authorizations was handled on the trains by railroad employees.

The latter service in 1931 constituted 27.85 percent of the total mail service and furnished 12 percent of the mail revenue. The record also shows that the average maximum mail load in the 3-foot units, except over the one run previously mentioned, ranged from 2 to 20 bags or outside packages, which was below the maximum load of 56 bags or the equivalent in packages. If adjustment in the computed data were made to reflect the actual use of the 3-foot units, the actual car-foot miles of mail service probably would be less than the authorized and the unit revenue per car-foot mile from mail would be somewhat greater. Expense of transporting mail per authorized car-foot mile, in view of the service rendered by applicant on its trains in connection with it, might reasonably be considered to be somewhat less per car-foot mile than for passenger-train service as a whole.

92

The matters disclosed in the original hearing upon this application, and considered by division 5 in its prior report, have been carefully considered by us in this reopened proceeding. We have had the benefit of additional testimony in respect of the conditions under which the authorized 15-foot railway post-office apartment is furnished, of a more comprehensive analysis by the department of the underlying data upon which the space and cost studies were made, and of a more detailed examination of the space data, the revenues per car-foot mile and expenses per car-foot mile as related to passenger-train operations, as a whole and to each of the three services rendered in that operation.

Giving consideration to all the computations, the extent and cause of the operation of a substantial portion of the unused space, the fact that a theoretical cost and not actual cost is derived from the methods and plans adopted, and the small amount of mail carried in the authorized units of service, we find upon this augmented record that the present rates for transportation of the mail by the applicant are fair and reasonable.

An appropriate order will be entered.

Commissioner Porter dissents. Commissioners Tate and Caskie did not participate in the disposition of this proceeding.

93 *Exhibit E to supplemental bill*

ORDER

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 4th day of February, A. D. 1936.

No. 9200

RAILWAY MAIL PAY

It appearing, That upon application filed April 1, 1931, by the Georgia & Florida Railroad, W. V. Griffin and H. W. Purvis, Re-

ceivers, a railway common carrier engaged in transporting mail matter, and answer thereto by the Postmaster General, the Commission by Division 5 after hearing entered its report and order thereon on May 10, 1933, and that thereafter the Commission by order entered March 12, 1935, reopened the proceeding for further hearing upon its own motion;

It further appearing, That a full investigation of the matters and things involved has been had and that the Commission, on the date hereof, has made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof;

It is ordered, That the rates of pay for the transportation of mail matter established in Railway Mail Pay, 144 I. C. C. 675, for railroads over 100 miles in length be, and they are hereby, established as fair and reasonable rates to be received by the applicant herein for services rendered on and after April 1, 1931.

And it is further ordered, That a copy of this order be served upon the Postmaster General and upon the said applicant.

By the Commission.

[SEAL] GEORGE B. MCGINTY, *Secretary.*

[File endorsement omitted.]

94 In United States District Court

[Title omitted.]

In Equity, No. 228

Answer of United States to supplemental bill

I

Answering section I of the supplemental bill, United States admits that petitioners filed their original bill in this court and that the court, duly constituted, heard, and decided the case upon the pleadings and the record of testimony taken before the Interstate Commerce Commission, but for a full, complete, and accurate statement of the matters and things stated and decided in the opinion of this court, United States, respectfully, refers the court to the full text of said opinion.

II

Answering sections II and III of the supplemental bill, United States admits that subsequent to the decision of this court the Interstate Commerce Commission reopened its proceedings in the premises and held further hearings at which it received additional testimony, briefs, and arguments, and that on February 4, 1936, the Commission rendered its decision and order, true copies of which are annexed as Exhibits D and E to the supplemental bill and which are hereby referred to and made a part of this answer.

95 III

United States denies the matters, things, and conclusions alleged in section IV of the supplemental bill, and denies that the Commission's said order of February 4, 1936, is unlawful or void for the reasons alleged in said section or for any other reason, including those alleged in the original bill filed in this cause.

IV

Except as herein expressly admitted, United States denies each and every allegation contained in the supplemental bill and in the several separate paragraphs thereof.

Wherefore, having fully answered the supplemental bill, United States prays that the relief therein prayed be denied and that the original bill and the supplemental bill be dismissed with costs to the petitioners, and that it have such other and further orders, decrees, or relief as may be just and proper.

Elmer B. Collins,
ELMER B. COLLINS,
Special Assistant to the Attorney General.

John Dickinson,
JOHN DICKINSON,
Assistant Attorney General.

96 In United States District Court

[Title omitted.]

IN EQUITY, No. 228

Answer of Interstate Commerce Commission to supplemental pleading of petitioners

The Interstate Commerce Commission, one of the defendants in the above-entitled suit, now and at all times hereafter saving and reserving to itself all and all manner of benefit and advantage of exception to the many errors and insufficiencies in the petitioners' supplemental pleading contained, for answer thereunto or unto so much or such parts thereof as it is advised that it is material for it to answer, answers and says:

I

Answering paragraphs I to IV, inclusive, of the pleading, the Commission admits and alleges that it made the report and order dated February 4, 1936, referred to in paragraph III of the pleading, copies of which, respectively, are attached to the pleadings as exhibits D and E, in a proceeding then pending before it and entitled
97 No. 9200, Railway Mail Pay, In the Matter of Application of Georgia & Florida Railroad for Increased Rates of Pay, which proceeding was instituted by the Commission on its own

motion, for the purpose of determining what order should be made to take the place of the order dated May 10, 1933, and referred to in paragraph I of the pleading, under authority conferred and duties imposed upon the Commission by the Railway Mail Service Pay Act of July 28, 1916, as amended; and the Commission respectfully refers the Court to the text of said report and order for more full and complete information in the premises.

The Commission further alleges that in said proceeding the parties thereto, including the petitioners in this suit, were, and that each of them was, accorded the full hearing provided for by law; that in said hearing a large volume of testimony and other evidence bearing upon the matters covered in and by said exhibits was submitted to the Commission for consideration, including testimony and other evidence submitted on behalf of said petitioners, by the counsel of said parties; that at said hearing and subsequently, both orally and in briefs filed in said proceeding, questions relating to said matters were fully argued and submitted to the Commission for determination on behalf of said parties by their respective counsel, including many of the particular questions raised by petitioners in this suit, whereupon the Commission determined said matters and entered and duly served upon said petitioners, and upon other interested parties, its said report and order; that said report and order included the Commission's findings of fact, decision, conclusions, order and requirements in the premises, and that, upon the evidence aforesaid, and as shown in and by said report, the Commission made the findings and stated the conclusions upon

98 which said report and order are based.

The Commission further alleges that the findings and conclusions in said report were and are, and that each of them was and is, fully supported and justified by the evidence submitted in said proceeding as aforesaid.

The Commission further alleges that in making said report it considered and weighed carefully, in the light of its own knowledge and experience, each fact, circumstance, and condition called to its attention on behalf of the parties to said proceeding by their respective counsel, including matters covered by the allegations of said pleading.

The Commission further alleges that said order of February 4, 1936, was not made or entered either arbitrarily or unjustly or contrary to the relevant evidence, or without evidence to support it; that in making said order the Commission did not exceed the authority which had been duly conferred upon it, and the Commission denies each of and all the allegations to the contrary contained in said pleading.

Except as herein expressly admitted, the Commission denies the truth of each of and all the allegations contained in said pleading, insofar as they conflict either with the allegations herein, or with either the allegations or conclusions of fact included in said report

of February 4, 1936, which report, and said order of February 4, 1936, are hereby referred to and made a part hereof.

All of which matters and things the Commission is ready to aver, maintain, and prove as this Honorable Court shall direct, and hereby prays that said suit be dismissed.

INTERSTATE COMMERCE COMMISSION,
By EDWARD M. REIDY,
Assistant Chief Counsel.

99 [*Duly sworn to by Charles D. Mahaffie, jurat omitted in printing.*]

100 In United States District Court

[Title omitted.]

In Equity, No. 228

Order for hearing

Filed June 20, 1936

W. V. Griffin and H. W. Purvis, Receivers for Georgia & Florida Railroad, the petitioners in the above stated cause, have presented motion to be allowed to file a supplemental pleading in this cause, and with said motion have presented the said supplemental pleading, and move the Court to allow the same to be filed.

It is ordered that the same be filed, subject to objections which may be made thereto by the United States of America and by the Interstate Commerce Commission at the time and place hereinafter provided for.

And the said W. V. Griffin and H. W. Purvis, Receivers for Georgia & Florida Railroad, in their said pleading which has been duly verified, seek an order enjoining an order of the Interstate Commerce Commission dated February 4, 1936.

It is ordered that the bill in this cause and the supplemental pleading thereto be set for hearing upon the prayers for a permanent injunction at a time and place to be fixed as practicable by further order, before a Court to be composed of three Judges assembled in the manner contemplated by the Acts of Congress in such cases made and provided.

101 It is further ordered that a copy of said supplemental pleading and this order and the motion to file said supplemental pleading be served upon the Attorney General of the United States of America and upon the Interstate Commerce Commission at least five days before the date to be fixed for such hearing, and that these shall be served upon the defendants, the United States of America, and the Interstate Commerce Commission, as required by the statutes in such cases made and provided.

It is further ordered that any person at interest may intervene in this cause, as is contemplated by the Acts of Congress in such cases

made and provided. The undersigned will call two other Judges, at least one of whom will be a Circuit Judge, to his assistance to hear and determine the application for a permanent injunction.

Dated June 20th, 1936.

(S) WM. H. BARRETT,
United States Judge.

[File endorsement omitted.]

102 In United States District Court for the Southern District of Georgia, Augusta Division

In Equity, No. 228

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD

v.

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION

Opinion and decree

Filed Feb. 23, 1937

Effective August 1, 1928, the Interstate Commerce Commission (hereinafter called Commission), in Railway Mail Pay, 144 I. C. C. 675, established rates for transportation of mail by railroads over 100 miles in length and these rates were applied to the Georgia & Florida Railroad. Thereafter the receivers of such railroad made application to the Commission for an alteration of such rates so that they would be fair and reasonable for such railroad. After a test period, investigation and hearing from counsel for applicant and for the Postmaster General the Commission on May 10, 1933, declined to change the rates.

The receivers of such railroad then brought their petition before a Three-Judge Court against the United States of America and against said Commission, praying that said order of May 10, 1933, be declared unlawful and wholly void and that such Commission reopen and reconsider the proceedings and "determine the fair and reasonable rates to be received by petitioners for transportation of the mails, on and after said April 1, 1931."

"No other facts were established or sought to be established than those set forth in said order of said Commission, a copy of which is annexed to petitioners' complaint." "The challenge is to the conclusion drawn from the undisputed facts." (Previous decision of this court.) The court therefore deemed it unnecessary to state "Findings of Fact", but its judgment did declare certain facts as follows:

103 "(1) The facts developed in the 'cost study' fully set forth in such order of the Commission were ascertained by the application of rules prescribed by the Commission.

"(2) All parties to this controversy agree that a 'cost study' is not and cannot be mathematically correct but is an approximation.

"(3) 'The distribution of expense upon the space ratios shows that the ratio for mail service was 102.79' or that for every dollar applicants received for transporting mails they expended one dollar and 2.79 cents.

"(4) The fact that this railroad lost more money on other services rendered by it or that other railroads transported mail under similar, if not identical, conditions at a profit or that this railroad belonged in a certain classification established by such commission, known as Class 1 railroads, and that therefore it should be in accord with other railroads of such class as to compensation as to mail, do not refute or impair the fact that the compensation allowed this railroad for the transportation of mail does not equal the cost of so doing. The Commission can fix such rates only 'Where just and equitable.'

"(5) The transportation of mail by railroads is compulsory but they are 'entitled to receive fair and reasonable compensation for such transportation and for the service connected therewith.'

"(6) There is no attack upon the efficiency of the operation of this railroad. There is no charge of extravagance."

The said order was annulled and the Commission was directed to take such further action as the law requires. There was no appeal from this decision.

Thereafter the Commission of its own motion reopened such proceeding, which resulted in a report on February 4, 1936, again establishing the same rates which this court had declared unlawful.

It becomes important to ascertain what, if any, additional testimony or what, if any, different rules of law warranted such conclusion.

For the reason that neither report states definitely "Findings of Fact" as such it is not easy to ascertain what different facts existed at the different hearings. We will do our best to ascertain the differences in facts and in rules of law following the course of discussion in the last report.

104 The report, after quoting from brief of applicant, states:

"There is implicit in the statement quoted, and in the corresponding portion of the opinion referred to, the assumption that if the department discontinues mail service on applicant's trains the applicant will thereby be saved the expenditures of $1.0279 for every-dollar of revenue it thus loses."

We do not concur in this statement. The opinion definitely states that these figures were derived by "the distribution of expense upon the space ratios" and by the employment of methods approved or directed by the Commission. However, we deem this difference in interpretation immaterial.

The argument of the Commsision to destroy the effect of its methods previously used is thus stated:

"* * * Relative costs derived from a series of studies of expenditures for operations common to a number of services cannot

be converted into absolute costs by using a single-figure relation derived from such studies.

"The cost computed in the manner described is a hypothetical cost and not an actual cost, and is not necessarily conclusive as applicant contends. In other mail-pay proceedings, in which space authorized and paid for was found to be the space that should be charged to mail in cost studies similar to that here, consideration was given to other factors as well, such as the amount and character of the unused space reported as operated (Railway Mail Pay, 85 I. C. C. 157, 170; 123 I. C. C. 33, 39); the actual space occupied by mail, as distinguished from authorized space, determined by the mail load carried, based upon a count of bags and of packages outside of bags, and, in some instances, by the weight (Railway Mail Pay, 95 I. C. C. 493, 500, 511; 120 I. C. C. 439, 446); comparisons with compensation received from other services in passenger-train cars (Railway Mail Pay, 144 I. C. C. 675, 706); comparisons with freight rates (Railway Mail Pay, 144 I. C. C. 675, 705; 151 I. C. C. 734, 742); comparisons per car-mile and per car-foot mile of the computed cost of mail service and the revenue from authorized mail service with the computed cost of corresponding units in passenger-train service as a whole (Railway Mail Pay, 144 I. C. C. 675, 699); and the character of the service performed in connection with transporting the mail (Railway Mail Pay, 56 I. C. C. 1, 8; Electric Railway Mail Pay, 58 I. C. C. 455, 464; 98 I. C. C. 737, 755)."

Neither applicant nor this Court entertains the view that the hypothetical cost is "necessarily conclusive." It is merely the fairest method that has been devised. If "actual cost" as to each item be required applicants would be helpless and the Commission would be reduced to guessing. What elements may have been persuasive "In other mail proceedings" are not necessarily to be considered here, and should not be in the absence of supporting testimony and some indication as to what weight was given each element. Further, there is no testimony here as to "unused space reported as operated." There is included payment for unused space not operated, of which more later. There is nothing to justify disregard of the fact used in the first report that "space authorized for mail is regarded as space used."

105

The law as established in this case by the previous decision, unreversed, makes inapplicable "comparisons with compensation received from other services in passenger train cars;" "comparisons with freight rates;" and "comparisons per car-mile and per car-foot mile of the computed cost of mail service and the revenue from authorized mail service with the computed cost of corresponding units in passenger-train service as a whole."

There is no criticism of "the character of the service performed in connection with transporting the mail."

Further argument of the Commission, as we understand it, is that because 30 feet instead of 15 feet is partitioned off for mail this adds 15 feet to the unused space for which the post office department

pays a part. We do not so understand the testimony. Our understanding is that the unused space is the same wherever the partition be placed.

There is however this further finding of fact implied, though not definitely stated, viz: that an unnecessarily large car is used and this adds to the portion paid by the mail for unused space and that if 15 feet were eliminated from the car the mail space ratio would be reduced to 10.79 per cent, resulting in a profit to applicant from mail of $1,711.

106 Lengthily are theories and possibilities advanced to establish that a different result might be reached if different methods were employed "to ascertain and compute the proportions of operating expense and the separations into expenses for freight service and passenger service respectively", but there is no justification submitted for abandoning the method employed in making the first report, which was unchallenged as to accuracy and was admitted to have been apportioned "in accordance with the formulas prescribed for Class 1 roads for the separation of expenses between freight and passenger service."

The second report not only does not contradict this but reaffirms it in this language: "The methods are the same as those prescribed in our rules governing separation of such expenses on large steam railroads."

We find nothing that warrants any change in our conclusions as to the legality of the order now before us from our previous conclusion as to the same rates except the fact, stated by implication, that the use of a mixed car shorter by 15 feet would result in a profit from mail revenue of $1,711 annually. The report discloses "The total mail service investment thus derived was $457,082." This return is approximately .0037 per cent. This is not "fair and reasonable."

Inasmuch as all the facts constituting the basis for the order of the Commission are fully set out in the report it is deemed unnecessary to restate them in this opinion as findings of fact, it is therefore ordered and decreed.

(1) That said order of the Interstate Commerce Commission of February 4, 1936, is and has at all times been unlawful and that said order be set aside and annulled.

107 (2) Said Commission shall take such further action in the premises as the law requires in view of the annulment and setting aside of the said order of February 4, 1936. This 22nd day of February 1937.

SAMUEL H. SIBLEY,
United States Circuit Judge.
WM. H. BARRETT,
United States District Judge.
E. MARVIN UNDERWOOD,
United States District Judge.

[File endorsement omitted.]

108 In United States District Court

[Title omitted.]

In Equity No. 228

Stipulation re transcript of record

Filed April 16, 1937

On the hearing of the application for a permanent injunction the petitioners offered in evidence a certified full copy of the transcript of the record of the evidence and proceedings before the Interstate Commerce Commission in the proceeding entitled Docket No. 9200, Railway Mail Pay—In the Matter of the Application of Georgia & Florida Railroad Company for Increased Rates of Pay, consisting of a total of 213 pages of the oral testimony of the witnesses and 39 exhibits and the same having been received in evidence by the Court, and the defendants having seasonably filed and served a condensed narrative of the transcript of the evidence and proceedings for the determination of the appeal; and now for the purpose of reducing and settling the record on appeal pursuant to Equity Rule 75, the parties by their respective counsel (and with the approval of the Court) stipulate:

109 (1) The within and attached narrative is a true and correct transcript in narrative form of all of the oral testimony introduced at the hearings before the Commission as the same is contained in the official typewritten transcript of the proceedings referred to.

(2) The narrative shall be substituted for the original transcript of the oral testimony so certified by the Commission, and shall be incorporated in the record on appeal and shall have the same force and effect upon the appeal as the original testimony.

(3) The exhibits in the certified copy of the transcript, which were introduced at the hearings before the Commission, Nos. 725 to 749, inclusive, and Nos. 759 to 768, inclusive, shall, with the exceptions mentioned in paragraph (4) of this stipulation, be incorporated and printed in the record on appeal in their entirety, and shall have the same force and effect upon the appeal as the original exhibits.

(4) The following exhibits received in evidence before the Commission and in the District Court, need not be printed:

(a) Exhibits Nos. 726, 727, 728, and 729, being copies of decisions of the Interstate Commerce Commission in 143 I. C. C. 303; 117 I. C. C. 473; 90 I. C. C. 413, and 184 I. C. C. 332, respectively, need not be printed in the transcript, but either party and the Court may refer to said published reports as fully as though printed in the transcript.

(b) Exhibits Nos. 743, 744, 745, and 746 were replaced by Revised Exhibits Nos. 743, 744, 745, and 746, respectively, consequently only said Revised Exhibits need be printed.

110 J. SAXTON DANIEL, *United States Attorney.*
ROBERT H. JACKSON,
Assistant Attorney General.
ELMER B. COLLINS,
Special Assistant to the Attorney General,
For the United States of America.
DANIEL W. KNOWLTON,
EDWARD M. REIDY,
For the Interstate Commerce Commission,
Defendants.
MOULTRIE HITT,
S. KIBBY MUNSON,
HULL, BARRETT, WILLINGHAM & TOWILL,
For Plaintiffs-Appellees.
J. J. WILLINGHAM,
Of Counsel.

Done this 16th day of April 1937.

ORDER

It is ordered, that the within and attached stipulation and narrative be, and the same are hereby, approved; and in preparing, certifying and transmitting the transcript of the record to the Supreme Court of the United States the Clerk is directed to proceed in accordance therewith.

WM. H. BARRETT,
United States District Judge.

AUGUSTA, GA., April 16th, 1937.

[File endorsement omitted.]

111 In United States District Court

**Narrative statement of evidence before I. C. C.*

Filed April 16, 1937

Docket No. 9200

RAILWAY MAIL PAY

IN THE MATTER OF THE APPLICATION OF THE GEORGIA & FLORIDA RAILROAD COMPANY

WASHINGTON, D. C., *June 29, 1932.*

Before Examiner F. E. Mullen of Interstate Commerce Commission

Appearances: Moultrie Hitt and G. Kibby Munson, for the Georgia & Florida Railroad Company. Jennings C. Wise and Edwin A. Niess, for the Post Office Department.

Statement by Examiner Mullen

Gentlemen, there is set for hearing at this time and place Docket No. 9200, Railway Mail Pay, in the matter of the application of the Georgia & Florida Railway Company. That company alleges that the rates of pay now accorded it are unreasonable and requests that the Commission fix reasonable rates, and, I assume, apply those rates back to the period or the date that the application was filed. I have the date the application was filed as April 1, 1931. (Tes. pp. 8981–8982.)

DIRECT EXAMINATION

I. R. WHITE, Superintendent of Transportation of the Georgia & Florida Railroad, living at Augusta, Ga., testified:

I have here a map which shows the Georgia & Florida lines of railroad on which is depicted the portions over which mail service is rendered.

(Carrier's Exhibit No. 725 was received in evidence.)

The Georgia & Florida was not constructed as a new enterprise but resulted from putting together several local short lines, principally lumber roads, serving regions from which the timber was being cleared and turned into farms. It was conceived that
112 by connecting these several little roads together with one operating organization continuing to pay substandard wages, the combined property would be self-sustaining, the public would not loose its transportation facilities, and the employes would not be thrown out of work.

The early plans contemplated a larger future for the Georgia & Florida. There were plans to link it up with a line which was being developed from Tampa, known as the Tampa Northern, now a part of the Seaboard Air Line Railway, but that never materialized, and as the Interstate Commerce Commission itself describes it in their report of May 5, 1932, Finance Docket No. 9153, the function of the property has been substantially that of a local line.

I have an exhibit which gives more details of the origin of the Georgia & Florida. I have here a copy of the report of the Commission dated June 22, 1926, in valuation Docket No. 330, 143 I. C. C. 303, which gives the history of the Georgia & Florida Railway up to June 30, 1918. This report recites the history of the Georgia & Florida Railroad and bears out the contention that it is an exceptional situation and is made up of short community railroads linked together.

(The document referred to was received in evidence, marked "Carrier's Exhibit No. 726, Witness White.)"

The Georgia & Florida has been added to since that time. There have been some other additions of similar character. For example, the Augusta Southern was acquired so as to give us access over our own rails into Augusta. The Statesboro Northern was acquired and

is described in 90 I. C. C. 413. There have also been some abandonments of branches which were not self-sustaining and did not
113 contribute sufficient traffic to the rest of the line to justify continuance.

(A copy of the decision of the Interstate Commerce Commission in Finance Docket No. 5812, entitled "Reorganization and Extension of Georgia & Florida Railroad Company, 117 I. C. C. 473, was received in evidence, marked "Carrier's Exhibit No. 727, Witness White.)"

(A copy of the Commission's decision of July 12, 1924, in Finance Docket 4030, Acquisition of Line by Statesboro Northern Railway, 90 I. C. C. 413, was received in evidence, marked "Carrier's Exhibit No. 728, Witness White.")

It is a fact that the Georgia & Florida is of the same general character as the so-called independent short lines of less than 100 miles in length, except that more recently we built an extension from Augusta to Greenwood, a distance of about 58 miles, to connect with the Piedmont & Northern, which in turn connects with the Clinchfield Railroad for the purpose of securing more through freight traffic. The extension from Augusta to Greenwood has not changed the character of the Georgia & Florida as a local community carrier, not to any material extent: Our general situation in these various respects was reviewed by the Commission in its report of May 5, 1932, in Finance Docket No. 9153, of which I have a copy here.

(This document was received in evidence, marked "Carrier's Exhibit No. 729, Witness White.")

The new extension from Augusta to Greenwood does not handle any mail, and we therefore exclude that part of the line from our statistics in this case, as shown on Form 53–A, copy of which will be filed later.

With respect to the character of the Georgia & Florida as a weak line comparable with short line carriers less than 100
114 miles in length: Our gross railway operating revenues per mile for 1930 averaged only $3,475.49, as compared with an average of $21,787.92 per mile for Class I roads as a whole, and for 1931 we averaged only $2,928.56 per mile. We have not the figures for 1931 for Class I roads as a whole as they are not yet available. There are many short lines less than 100 miles in length which have greater earnings per mile, and do a relatively larger interline or through business than the Georgia & Florida. I might also say that, as "birds of a feather flock together", we are and have been for many years a member of the American Short Line Railroad Association. The total length of the road is 463 miles; that includes the main line and all of the branches noted on this map, which was offered as Exhibit No. 725.

Referring to map, Exhibit 725, I had better explain that this map does not depict all the mail service performed by the Georgia & Florida in 1931, because it does not include certain service by motor cars, which is not included in either the space or the financial sta-

tistics as corrected and accepted by the Post Office Department. The motor-car service is excluded from the space and financial statistics because it is not an important factor in the total situation, and therefore it makes the statistics simpler to deal with. Our mail revenue on that particular service was only $979.36 in 1931. In 1930 it was only $458.76. As to the out-of-pocket cost to the Georgia & Florida for the operation of that motor-car service in 1931: We made up an estimate which includes only labor, gasoline and oil, repair parts and supplies, and depreciation for 1931. Those items amounted to $1,557.19 and in 1930 those same items were $979.36. We do not handle any other traffic on those motor cars. It is all operated for mail service only and, as it is all carried on a minimum 3-foot
115 space authorization, the car foot mileage of that 3 feet for 20,803 miles of service space would be 62,409 car-foot miles. (Tes. pp. 8983–8988.) These car-foot miles are not included in the space statistics. Mr. L. A. White, the representative of the Post Office Department, instructed us to make no space reports on these motor cars, as it was all assignable to mail service, and we presume that whatever increase in rate is fixed for the 3 feet of space minimum will apply to this motor-car service, and, as our deficiency in mail revenue is so large anyhow, we haven't felt it was necessary to lay a great deal of emphasis on this comparatively unimportant service. As to the description of the motor-car service we have just been discussing: As I have said, it is all under 3-foot space authorization from the Post Office Department and, though it is not depicted in colors as referred to in the legend on the map, that service entirely for the mail is as follows:

(1) Gibson to Keysville and return daily except Sunday, or 313 round trips of 14,749.2 miles in 1931 of authorized 3 feet of space, making 44,247.6 car-foot miles for the year.

(2) Summit-Graymont to Garfield and return daily except Sunday, or 313 round trips of 3,696.4 miles of authorized 3 feet space, or 11,089.2 car-foot miles for the year 1931.

(3) Midville to Summit-Graymont and return on Sunday only, or 52 round trips of authorized 3 feet of space of 2,357.4 miles, making 7,072.2 car foot miles for 1931.

These are simply two-cylinder roadway motor cars designed for the carrying of one or two men on inspection work. They have ample space on which to load the mail that ordinarily is carried in a three-foot space. Speaking generally, the roadway cars have a cover, to protect the driver, and the mail is protected by tarpaulins. These cars are operated on the rails the same as our trains. You will
116 observe that the service in 1931 shown by the map, Exhibit 725, are divided into Group One and Group Two and each service is depicted in colors, and the legend shows the trains and the points between which the service is rendered. Group One are the trains on which service was being rendered during the test period and which was rendered throughout the entire year 1931 the same as it was during the test period. This Group One service is the unbroken

red line. The unbroken line depicts the 15 foot compartment space with R. P. O. Clerk on Train No. 5, Augusta to Valdosta and the same service on Train No. 4, Valdosta to Augusta. This is daily service. The unbroken green line depicts the 15 foot compartment space with R. P. O. Clerk on Train No. 21, Augusta to Tennille and the same service on Train No. 22, Tennille to Augusta. This service is daily. The broken red line depicts the 3 foot closed pouch service on Train No. 18, Madison, Fla., to Valdosta, Ga., and the same service on Train No. 17 Valdosta to Madison daily. The unbroken yellow line depicts the 3 foot closed pouch service on Nos. 30 and 32, Douglas to Broxton and the same service on Nos. 31 and 33, Broxton to Douglas daily except Sunday. The unbroken brown line depicts the 3 foot closed pouch service on Train No. 43, Midville to Statesboro via Summit and Graymont and the broken brown line the same service on No. 44, Statesboro to Midville, but the side trip Garfield to Summit-Graymont is not made in the afternoon. This service is daily except Sunday.

Group Two shows those services which were operated in part of 1931 but not in the test period. The broken yellow line depicts the service from January 1st to April 1st, inclusive of three foot closed pouch authorization on Train No. 9, Augusta to Hazelhurst, and a three foot closed pouch authorization January 1st to April 3rd, inclusive, on Train No. 10, Hazelhurst to Augusta. This service was discontinued as of the dates last mentioned account
117 discontinuance of the two passenger trains. The unbroken black line depicts the 3 foot closed pouch authorization January 1st to July 1st, inclusive, on Train No. 26 Moultrie to Sparks and on Train No. 25, Sparks to Moultrie. The broken black line depicts a 3 foot closed pouch service July 3rd to July 15th, inclusive, on Train No. 25, Ellenton to Moultrie. This service was discontinued by cancellation of the authorizations by the Railway Mail Service authorities.

A space test on the Georgia & Florida for the purpose of this particular case was so conducted from September 28, 1931, to October 25, 1931, under the supervision and direction of Mr. L. A. White, a representative of the Railway Mail Service sent to us for that purpose by the Post Office headquarters in Washington. The period was selected for the test chosen as being representative. We suggested either August, September, or October would be representative months, and Mr. Stephenson and Mr. Gilbert of the Post Office Department came down and rode over the line and chose this period as representative of the condition and volume of all traffic handled in passenger equipment on the Georgia & Florida at the present time. The space data was collected and compiled and submitted to the Post Office Department. We made up three reports on R. M. P. Forms 401, 402, and 404 for the Post Office Department, on which the results of the test were set out and same were accepted by the Department as correct. I have here the report on R. M. P. Form 401, entitled

"Statement of the Complete Operation of Trains in Passenger Service Including Passenger Service Cars in Mixed Trains and Motor Cars."

(The document referred to was received in evidence and marked "Carrier's Exhibit No. 730, Witness White.")

118a I have here the report on R. M. P. Form 402, entitled "Statement of the Operation of Space in Combination Cars."

(The document referred to was received in evidence, marked "Carrier's Exhibit No. 731, Witness White.")

The third report is the report on R. M. P. Form 404, entitled "Recapitulation of the Operations of Space in Passenger Train Service and Total Car Foot Miles Segregated Between the Various Classes of Service."

(The document referred to was received in evidence, marked "Carrier's Exhibit No. 732, Witness White.")

I did not have a report on Form R. M. P. 403, entitled "Statement of the Operation of Space in Mixed Traffic Baggage Cars." R. M. P. Form 402 covered service performed in cars in which there was other traffic besides mail.

These reports were prepared by me and they are correct.

CROSS EXAMINATION

I stated that the test period was selected by the Post Office Department. The company agreed to that test period as representative; they had no objection to it. The report of the data which were collected by representatives of the railroad and by Mr. White was not compiled in the Post Office Department; it was compiled and furnished to the Post Office Department. As to whether the company and the department agreed as to the results of these statistics: We submitted the reports to the Department and they were accepted. Whether that constitutes an agreement I am not in position to say. Neither side objected to the results as they were reached.

(Witness excused.)

118b DIRECT EXAMINATION

L. O. Todd, Auditor for Receiver, Georgia & Florida Railroad Company, testified as follows:

I compiled the so-called financial statistics for the year of the test period for use in connection with the space test figures in arriving at the cost of the service. These statistics were prepared not only for the year 1931 but for the years 1929 and 1930, so that the space test figures could be compared with more than one yearly period. I have a copy of those financial reports. First I have here the reports for the year 1931, which are: Form R. M. P. 50, of one sheet, entitled "Railway Operating Revenues;" Form R. M. P. 51, of five sheets, entitled "Railway Operating Expenses;" Form R. M. P. 52, of one sheet, entitled "Income Account;" Form R. M. P. 53, of

one sheet, entitled "Operating and Traffic Statistics;" Form R. M. P. 53–A, of one sheet, entitled "From the Total Property Investment Shown in Section N of Form R. M. P. 53, the following items should be separately stated;" Form R. M. P. 54, of one sheet, entitled "Investment in Equipment;" Form, of one sheet, but without R. M. P. number, entitled "Working Sheet to be Used for Developing Ratios for Application to Certain Accounts in the Preparation of Financial Forms R. M. P. 50 to 52."

(The document referred to was received in evidence, marked "Carrier's Exhibit No. 733, Witness Todd.")

I have here exactly the same set of sheets as I have just described except that they give the figures for 1930. (Test. pp. 8989–8997½.)

(The document referred to was received in evidence, marked "Carrier's Exhibit No. 734, Witness Todd.")

I have here exactly the same set of sheets with the figures for 1929.

119 (The document referred to was received in evidence, marked "Carrier's Exhibit No. 735, Witness Todd.")

These statements were prepared by me. As to whether I made some handwritten changes on Forms R. M. P. 50 and 52 in 1931 and 1930: I did not make these changes. The reports as I made same are all in typewriting and the handwritten changes I understand were made in Washington by Mr. J. H. Hunt in conference with the Post Office Department.

These reports were made pursuant to the Post Office Department's pamphlet of "General Instructions for Preparation of Financial Statistics." I have a copy here.

(The document referred to was received in evidence, marked "Carrier's Exhibit No. 736, Witness Todd.")

Mail revenues have not fallen off in the same proportion as the passenger and freight. The only changes in the mail revenue have been by reason of the changes in service as described by Mr. White. The mail revenue holds up pretty well as compared with our freight and passenger for the years 1929, 1930, and 1931.

(Witness excused.)

DIRECT EXAMINATION

J. H. Huntt, Washington, D. C., testified as follows:

I am employed as Chief Statistician for The American Short Line Railroad Association, but I also do work for others. I have knowledge of railway mail pay statistics. I prepared many of the exhibits for the short lines in the general mail pay case, which was decided July 10, 1928 (144 I. C. C. 675), and I have since prepared other statistics and data and checked and verified numerous mail pay settlements with short lines. I am familiar with the space and financial statistics to which Mr. Todd has just testified. At

120 this time I wish to call attention to the pencil corrections appearing on the various financial forms, which are the result of

conferences between Mr. Gilbert of the Post Office Department and myself to take care of the elimination of mail service rendered on motor cars and also to correct the statistics for mathematical errors. Those financial forms are in as Exhibits 733, 734, and 735. I have worked out exhibits to show the results of those space and financial statistics for a cost study, or studies, with respect to the mail pay service of the Georgia & Florida. In a cost study of this sort it is necessary to ascertain the proportion of (1) carrier's cost of operation, and (2) return upon investment, which is chargeable to the mail service. The first step is to make a separation as between freight services and passenger services, the basic figures for which are contained in the financial statements to which Mr. Todd has testified, and which are Exhibits Nos. 733, 734, and 735. My description of our cost study for 1931 will be practically applicable to 1929 and 1930, as to the method, although the figures vary. I will talk about the year 1931 primarily and avoid unnecessary repetition of the same comment for 1929 and 1930. I have here an exhibit (Huntt–A) of one sheet entitled "Development of Space Ratios", which makes that separation upon the so-called Plan 2 formula which the Commission has uniformly approved in all these mail pay cases, which shows the proportion of the passenger services chargeable to mail as developed by the test period statistics is 15.03% of the total passenger services.

(The document referred to was received in evidence, marked "Carrier's Exhibit No. 737, Witness Huntt.")

My next exhibit is a statement of one sheet entitled "Separation of Total Expenses", on which the total expenses for
121 freight services and for passenger services have been assigned upon the formula which the Interstate Commerce Commission has prescribed for Class I roads, and which is the customary basis used in these mail pay cases. This exhibit shows the separation for the years 1931, 1930, and 1929. The expenses for passenger services in 1931 were $315,272.81, for 1930 were $340,817.63, and for 1929 were $396,368.88.

(The document referred to was received in evidence, marked "Carrier's Exhibit No. 738, Witness Huntt.")

As to whether I then make a separation of these expenses for passenger services as between (a) passenger including baggage, (b) express, and (c) mail: I have here an exhibit (Huntt–C) of one sheet showing that separation. The so-called space statistics of car-foot miles resulting from the test period is the basis for this separation between the different divisions of the passenger services. In other words, the R. M. P. Form 404 contains the car-foot miles upon which the separation to the different passenger services is made.

(The document referred to was received in evidence, marked "Carrier's Exhibit No. 739, Witness Huntt.")

I have made a corresponding separation of the investment figures. My separation of the investment is first made as between the freight and passenger services, and I do not think there is any dispute between us on that primary separation.

As to whether I have an exhibit showing my separation of investment, first, as between freight and passenger services, and then the passenger services separated so as to show the proportion assignable to mail: I have here an exhibit of one sheet (Huntt–D) entitled "Investment—Years 1929, 1930, and 1931—Showing Fair Return Computed Thereon", which shows both separations. My assignment of the passenger services is based on Plan No. 2.

122 (The document referred to was received in evidence, marked "Carrier's Exhibit No. 740, Witness Huntt.")

I have drawn these figures together to show the extent to which revenue from mail service has fallen short of paying its share of the expenses assigned to mail and its share of a return on investment. I have here an exhibit of four sheets (Huntt–E) entitled "Deficiency in Mail Revenue", which sets forth for each of the years 1931, 1930, and 1929, and also for an average of those three years, the extent of the deficiency to which the mail revenue has fallen short of paying its share of the operating expenses and of a 5¾% return upon the property devoted to mail transportation.

(The document referred to was received in evidence, marked "Carrier's Exhibit No. 741, Witness Huntt.")

For 1931, the year of the test period, the additional revenue needed to overcome the deficiency in that year is $42,181.00, an increase of 118.06%. For 1930, $41,807.00 would be necessary, an increase of 106.95%. For 1929, $55,062.00 would be needed, an increase of 134.61%. For an average of the three years 1931, 1930, and 1929, $46,350.00 would be needed, or 120.16%. That is a three year average. Compensation for the motor car service is not included in the calculation.

On Exhibit No. 37, the unit there is car foot miles. As to whether the mail space ratio of 15.03 is derived from the relation of the car foot miles in combination cars plus unoccupied space related to the total of all space: The unoccupied space is separated upon the basis of the various services in the combination car. (Tes. pp. 8997½–9005.) My 15.03 is derived by dividing our total mail space shown there by the total of all space. In other words, this is the formula adopted under Plan No. 2 in its entirety.

123 Q. Have you mail compartments, or do you know?

A. No, sir.

(Statement by Mr. Hitt:) There are mail compartments; 15 foot service between Augusta and Valdosta, also between Augusta and Tennille. We use Plan No. 2 throughout which is described in the Commission's report in 144 I. C. C. 675.

Examiner MULLEN. Are you going to put in evidence showing the rate of return on the entire operations of the road and separately the rate of return in the passenger service operation?

Mr. HITT. We put in the basic figures which show all of that information, and these bring those figures together.

Mr. STEPHENSON. Our figures will show that.

(Witness excused.)

DIRECT EXAMINATION

CHARLES H. STEPHENSON, Superintendent, Office of the Special Assistant to the Attorney General, Post Office Department, testified:

I have a series of eight exhibits or eight sheets showing the operation of and the payment for the mail service on the Georgia & Florida Railroad for the several years.

"Mr. NIESS. Mr. Examiner, I imagine for expedition I might hand you at this time two sets of those exhibits. There are eight sheets to which Mr. Stephenson will testify, subject to objection by the carrier. Those exhibits have been furnished to the representatives of the railroad for their examination prior to this hearing. It may be offered as one exhibit instead of eight."

I personally did all of the work in connection with the compiling of these statistics and exhibits. These statistics are operating statistics, and payments for.

124 Sheet 1 of Exhibit 742 shows the amounts paid by the Post Office Department for the transportation of the mails for the fiscal years 1925 to 1931, inclusive, segregated between regular and emergency service and additional retroactive pay in accordance with the Order of the Commission in the last General Mail Pay Case decided July 10, 1928. We used calendar years in our financial statement, but these are payments from the appropriations for those particular years and, of course, they are on a fiscal year basis. Our fiscal year ends June 30th.

Sheet 2, shows the authorized mail service in effect on November 1, 1931, immediately after the statistical period. This same service was in effect also during the period of study.

Exhibit No. 742, sheet 3, shows the computed car foot miles of passenger service for the years 1929, 1930, and 1931. The car miles for each year agree with those reported to the Interstate Commerce Commission in the annual report of the Georgia and Florida Railroad.

There were three types of cars operated during each of these three years. Only two types—that is, passenger coaches and combination cars—were operated during the test period. The average lengths of passenger coaches and combination cars operated during the test period were used to compute the car-foot miles for those cars. An average length of 66 feet was furnished by the Georgia and Florida Railroad for Pullman cars. These several lengths when applied to the annual car miles produce a close approximation of car-foot miles. The car-foot miles for motor cars were not computed. The car miles for such are shown in this exhibit for information as they were reported to the Interstate Commerce Commission in the Annual Reports for 1930 and 1931 as passenger car miles.

Whether they were correctly reported as such I am unable to state.

125 Exhibit No. 742, sheet 4, shows the miles of mail service, by units, performed by the Georgia and Florida Railroad and the payment made by the Post Office Department for this service. The amounts used in the financial exhibits which are to follow are $40,904.25 for 1929; $39,087.46 for 1930; and $35,728.01 for 1931.

These are on the calendar year basis. I might say in addition that the Georgia and Florida Railroad did not include any motor car miles in their annual report for 1929, although they have performed some for mail service. They did include them however, in 1930 and 1931.

Sheet 5, shows the space data reported on Forms R. M. P. 401 and 402 for the test period September 28 to October 25 1931. It also shows on Form 401, 28/365 of the car and car foot miles performed in 1929, 1930, and 1931 separately for passenger and combination cars. The total car-foot miles for the year were secured from this Exhibit, sheet 3. Sheet 5 also shows the tabulation on Form 402 of the data developed from the test period for combination cars. In addition to these figures there are shown 28/365 of the actual operation of mail service by units for the years 1929, 1930, and 1931 and 28/365 of the car foot miles for these same years apportioned to other services and unoccupied space on ratios ascertained during the test period. As to whether I draw any conclusions from that comparison, that is, the figures for my test period extended to cover a year's operation as compared with 28/365 of the total car foot miles for each of the years shown: The figures as a whole show, in the first place, that service began to decrease in 1929 and was at its lowest ebb in 1931. It also shows that the test period extended was quite a little bit less than the actual figures for 1931, That will be taken up in a subsequent sheet of the exhibit.

126 Exhibit No. 742, sheet 6, shows in graphical form the operation of space in passenger service on the Georgia & Florida Railroad for the years 1929, 1930, 1931, and for the test period extended to one year. This exhibit shows the decrease in passenger traffic beginning with 1929. For this purpose 1929 was considered 100 per cent. The question may arise in the mind of the examiner as to why in this particular case we went back to 1929 and 1930 when in other cases we used the current year. To begin with, the year 1931 had not been completed when we first began the study. At that time we thought that 1929 might be the normal year to use, then again it was thought we could compare 1929 with 1930, but before the case came to hearing the year 1931 was closed and we were able to use the figures for that year. The operation in 1930 was 80.81 per cent; for 1931 was 71.83 per cent; and for the test period extended to one year was 59.55 per cent of that for 1929. From this chart it will be seen that the test period was not representative of the total for the year 1931. The relationship between passenger cars and combination cars for the test period extended

and for the year 1931 varied about 3 per cent. The examiner will note that a correction has been made on these exhibits, or at least on some of them. That is due to the fact that at the very last minute I noticed that we received a letter from the Georgia & Florida Railroad Monday, saying that I had incorrectly used my interpretation of passenger car miles and combination car miles taken from the annual report. After that letter came in on Monday I saw that it varied somewhat, so the diagram or graph was changed.

The Department is interested in securing ratios that are reasonably accurate. To accomplish this the method used in the last General Mail Pay Case was again used to adjust the space
127 from which ratios were to be ascertained. This method based primarily on test period ratios for combination cars excluding mail service, however, carries back to the previous fiscal years the same relationship between the services other than mail as existed during the test period. It is self-evident that traffic has been decreasing ever since 1929. This not only applies to passenger but to all other transportation services including the mails. The decrease in the mails, however, is not so apparent as the units of authorization have not changed although the volume of mail carried in these units no doubt has; I am unable to state the extent, however. A subsequent exhibit will show the volume carried in 3-foot closed pouch units during the test period. As to whether I know what would have to be the decreased in volume of mail to bring about a decrease in authorization: For the Georgia & Florida it could be decreased—well, the decrease would have no effect on it because we have only two units, the 15 foot apartment car and three foot closed pouch. There is no lesser unit than the 15 foot apartment and no lesser unit than the three foot closed pouch. So if there is only one sack of mail we would pay for the three foot closed pouch just the same. With respect to whether I could discontinue the authorization on the number of days less than the number of days in the week: The Department does not do that.

With respect to sheet 6 of Exhibit No. 742, it is my contention that it would not be proper to use the ratios developed during the test period, and applying those ratios to the operations for the years 1929 and 1930. (Tes., pp. 9006-9013.) I do not question the use of those ratios to the operations for the year 1931. You will notice back on page 5 we have the test period extended and we also have the year 1931, and taking the top part of that sheet, R. M. P. Form 401, notice the variance between the strictly passenger
128 service of the test period extended and of the year 1931. There is a difference there of three or four hundred thousand car-foot miles, which has a big effect upon the ratios that are produced. Sheet 7 of this exhibit brings out in detail that effect, the effect of an adjustment to the 1931 figures.

Now, take Plan 1. The test period unadjusted for mail is 9.98 percent, but that is decreased approximately 1 percent, down to 8.98 percent when that is adjusted. The adjustment was made in the 1927

case. For instance, the passenger car foot miles, of course, would not be changed. That would be charged direct to passenger service. Taking the combination cars, we know to a certainty the exact number of car foot miles performed by mail service in 1931 because we paid for it. That being a known quantity that amount has been set down as a charge to the mails and the remainder of the space in the combination car, which space segregated to passenger, express, and unoccupied space, was apportioned on ratios developed in the test period. That is one of its frailties, I will agree. It did not have so many frailties in 1927 as it has now, especially when you apply it back to 1929, for the reason that the service has been decreasing right along. And these ratios that we secured for the test period were applied to the later year 1931. There is no doubt in my mind that during the October period that the service perhaps was somewhat less than it was at the beginning of the year because it showed that it began to go down from 1929. However, these ratios that were ascertained to the test period were applied to the year 1931 and that produced a computed car foot miles for passenger, express and unoccupied space in those combination cars. Then following that up we applied our various plans for the computing of these ratios after we had
129 established the basis. The basis, of course, is the space in the combination cars segregated to these services and the space in passenger cars.

Taking Plan No. 2, which is shown underneath Plan No. 1 on sheet 7, it shows that the ratio for 1931 under the adjusted plan is 12.96 percent as against 15.03 per cent in the test period.

"Q. In making that adjustment did you assume that the test period figures extended to one year represented the correct number of car foot miles operated in the year 1931? In other words, did you take full advantage of the difference between the actual car foot miles operated and the computed car foot miles operated?

"A. Well, this puts it on both bases. This particular sheet, sheet 7, shows the effect both ways."

In arriving at our adjusted figure we took the actual number of car foot miles. That is computed. I would not say that it is the actual, but it is computed as nearly to the correct amount as we could get for the entire year 1931 and not the test period extended. We took full advantage of that difference in working out our adjusted space ratio. And we followed these out, or Mr. Gilbert has followed this out in the exhibits he intends to introduce. We are going to show not only the effect on the ratios for the test period which will be comparable to the railroad's figures but we are going to show that for the years 1931, 1930, and 1929. As to whether the difference between the figures for the test period extended and the computed figures for 1931 amount to about 12 per cent: It all depends upon what plan you use. Plan 2, for the test period it is 15.03 per cent and for 1931 adjusted is 12.96. That is for mail alone.

"Q. What is it for the entire service, passenger, express, and mail all combined? Does it amount to more than 10 per cent?

"A. Oh, yes. So far as the total is concerned there is a variation of more than 10 per cent."

130 Going back to Exhibit No. 5, if you compare the total of the car foot miles under total of strictly passenger service you have a difference there of practically 400,000 car foot miles, in round numbers, and that divided by 1,728,382, the top amount, would be much more than 20 per cent as far as passenger service is concerned. Taking the total as a whole, which is shown in the second column, there is a difference of 600,000, and if you divide that 600,000 by 3,000,000, you get over 20 per cent. So there is a variation there of approximately 20 per cent.

Sheet 8 of this exhibit shows the extent to which the three-foot closed pouch units were used. These were all of the three foot closed pouch units authorized during the test period. This exhibit is intended to show that the three foot closed pouch unit is not filled-up capacity, that no doubt there is a reduction in mail service as well as in express and freight and other services, and as in our statements we use only the unit itself and not the capacity, it does not show up on our forms.

(The document referred to was received in evidence, marked "Department's Exhibit No. 742, Witness Stephenson.")

CROSS EXAMINATION

Taking up Sheet 8, about which I spoke last, as to the volume in the three foot space authorization, my point is that there has been some decrease in the volume of matter carried in the three foot space. Naturally that would follow in any period of depression. There is less communication and therefore it would be less volume.

"Q. Of course, in fixing rates here in this proceeding in all probability it will be rates which will apply for some years to come, and we hope by that time that the depression will be over. In that event the volume should return to what might be considered normal? Is that correct?

131 "A. There is no doubt about that. At any rate, I am sure a rate will be set for a three-foot closed pouch unit and not for the number of bags in a three-foot pouch unit.

"Q. In other words, your contention heretofore, as I understand it, has been when you authorized for use such space you could put just as much or as little matter in it as you wanted to.

"A. Up to the capacity of the unit."

And that being the case, there is no point as to how much volume is carried in the particular authorized space. Of course, this sheet here is for the information of the examiner, and it shows also the extent to which the motor car service is used. All those authorizations are three foot closed pouch authorizations. With respect to this exhibit, if I had discontinued some of our authorizations on days of that week I could have carried all of the mail in the three-foot authorization on the fewer number of days.

(Statement by Mr. Niess:) It would be a possibility to accumulate it and send it as we have a full compartment, but we would not be complying with the law to give the mail extreme expedition, the best expedition possible.

The WITNESS. When a post office has to be supplied by mail service they are supplied daily almost altogether. If they are not supplied daily by railroad they are provided service through other means. And it would not be to our advantage to reduce the service to fewer than six days a week. I would not say that all post offices are supplied every day in the week. But I would say that the greater number of post offices in the United States practically all are. That lies with the Post Office Department. They could continue it if they wanted to.

132 "Mr. HITT. As to sheet 8 of Exhibit No. 742. Mr. Examiner, we object to that upon the ground that it is immaterial and irrelevant. Mr. Stephenson has just testified that it does not make any difference about the volume and that he recognizes this particular volume cannot be made during a period of depression, and that it will come back no doubt some of these days, and it does not make any difference what volume is put into the space, that it is the space they pay for. So it does not seem to me that sheet 8 is relevant. We do not question the accuracy of the figures.

"Examiner MULLEN. The objection is overruled. The exhibit will be received."

(Statement by Mr. Stephenson:) On sheet 2 of Exhibit No. 742, we show the mail service in effect on November 1, 1931. That is not supposed to represent the service that existed on the Georgia & Florida Railroad throughout the entire year. There were some changes made during the year but only for three foot closed pouch units.

133 Referring to Exhibit No. 725, the map on which is shown the service performed on the various trains throughout the year 1931. So far as I know Mr. White's description of that service is correct. I do not question the accuracy of it.

Sheet 2, showing the same service in effect on November 1, 1931, also shows the service that was in effect during the test period. But I think in the spring of the year there was some change made in the mail service on the road.

Throughout these exhibits there are a number of pencil changes which were made at my request after I myself found that the figures I first had in there were incorrect. I computed the correct figures and had them placed in there by one of my clerks. I did not think it was necessary to rewrite the exhibits and put in the corrected figures.

With respect to the equation as between the test period car miles and car foot miles and the 1931 car miles and car foot miles, the object of using the year's car miles divided into the car foot miles was not to get ratios that are different, but the object was to get as

nearly correct ratios from figures that we had to more nearly represent the total for a year. The effect of making that extension is to get a different ratio than the ratio indicated in the test period. If the total car miles in the annual report for the year had been the same as the car miles in the test period multiplied by 13 then there would have been no adjustment.

"Q. In other words, the test period being 28 days, that is one-thirteenth of an entire year?

A. Of course, I took $^{28}/_{365}$. It is just a different method, is all."

With respect to sheet 3 which shows passenger coaches multiplied by 57 feet to get the total car foot miles, I make the
134 calculation on the sleeping and dining cars by multiplying the mail miles by 66; eventually we reduce that to 60-foot cars before we use it in the financial exhibits. That is the only place where it is reduced. These car mile figures are not 60 foot car miles. They are actual car miles. In taking the car miles for the test period and by using a multiplication figure of 57 for the passenger coaches and 55 for combination cars we get total car foot miles; we don't divide that by 60 to get back to a figure for the test period of car miles. You see we extended the figures for the test period. The test period was $^{28}/_{365}$ of a year. We divided the test figures by 28 and multiplied by 365. As to the year figures, we start with a total of the figures reported in the annual report to the Commission by the carrier of the total car miles. That is shown on sheet 3 of this exhibit. Then we take the extended car miles for the test period and deduct that from the figures reported to the Commission and we get a difference of about 135,000 car miles. I presume that is approximately correct. There is a difference of only about 10,000 car miles. That is shown on sheet 5. The total car miles for the test period extended is 54,706 and for 1931 adjusted 64,988. This was for 28 days. 10,000 multiplied by 13 would be in the neighborhood of 130,000 for the year. We have an excess of 135,000 miles reported to the Commission over what the test period extended would be as to total car miles. The problem is to determine what proportion of that 135,000 miles could be assigned to mail and what proportion to other services. We first have the division between strictly passenger service and combination cars. That is known. That is given to us by the company. Then we take the combination cars and apportion that.

To start with, as I said before, the total car foot miles of
135 mail service is known. That is what we pay for. That first is subtracted from the total of the combination cars and the rest of it is apportioned to express, passenger and unoccupied space on what actually was found to be the case in the test period. Now, those ratios are shown on the bottom of sheet 6. The express is 11.31 per cent, passenger 34.83 per cent, and unoccupied space 53.86 per cent. From the tabulation submitted in a letter from Mr. White that I received Monday morning I gathered that this difference in the mileage for the year as shown by the annual report and the mileage

for a year as extended from the test period was almost wholly, if not wholly, accounted for by the operation of those trains in January, February, March, and April that were not operated during the test period.

With respect to the use of financial figures for the years 1929, 1930, and 1931: The reason I used 1929 and 1930 was because at that time we did not know we were going to have 1931 figures available in time. As to whether it is proper to use the 1931 figures rather than the 1929 or 1930 figures now that we have the 1931 figures available: I think that is up to the examiner. He can give consideration to all of the years. We don't know whether the year 1931 is going to continue—I mean we don't know whether the depression of 1931 is going to continue forever or not, so far as the Georgia & Florida Railroad is concerned. Trains 9 and 10 between Augusta and Valdosta and some other service that continued throughout the year—those trains were operated only for part of the time in 1930 and 1931.

"Q. So this decrease spoken of in the volume of car miles since 1929 is explainable on the ground that those trains have been taken off. And if that mileage is out of the picture it seems to me
136 that it is not proper to attempt to use 1929 financial statistics in relation to space statistics for 1931.

"A. Personally I will leave that to the examiner.

"Examiner MULLEN. Suppose you use 1930.

"Mr. HITT. I do want to say on the record that we do think 1931 is the proper year to use and upon which emphasis should be laid."

We have attempted to show the ratio and other information for the various years so that the examiner could have sufficient data upon which to decide the case.

(Statement by Mr. Niess:) Mr. Examiner, on behalf of the Department, we think that those figures should be accepted for such value as will be found in them and for comparative purposes. Whether they have much or little influence, we think they should be considered.

(Statement by Mr. Hitt:) We haven't any particular objection to those figures being considered as part of the general picture so that you can look backwards as well as forecast somewhat for the future, but we do think both space and financial statistics should be measured by the year in which the test was conducted.

As to what are the differences between plans 1, 2, and 3 and this fourth plan which does not have a number, on my sheet 7: I think the record in the last general railway mail pay case shows conclusively what these plans are, and I think it is unnecessary for me to repeat it, unless you insist upon it. As far as the fourth plan is concerned, as you call it, I will be glad to comment on that. But personally I think it is encumbering the record, because it is already in the record in the 1937 case.

"Mr. HITT. Well, we will not insist upon that.

"Examiner MULLEN. Except perhaps it would be better to explain how you arrived at the ratios without charging any unoc-

137 cupied space to the mails, that is, do you charge all of the unoccupied space to services other than the mails?

"The WITNESS. Yes; that is right. We had a certain object in putting this up. This method was first presented to the Commission in the first mail pay case in 1918. We do not claim that the Post Office Department should not share in a certain amount of unoccupied space. We do claim that we have a right to our belief as to what the proper plan is, and we do not think that the Commission has settled upon a proper plan. So to bring this out specifically we wanted to show here the ratio, if any, that is, if unoccupied space were charged to the mail. It shows here in the case of 1931 of the total amount of service performed 7.23 per cent was actual mail service performed."

I have not worked out any ratios throwing all unoccupied space to the discard and charging it to no service whatever, that is, unoccupied space in combination and mixed cars. Well, Plan 3 has that effect. We get the same ratio without the use of the unoccupied space as with it. I am sure of that. In Plan 3 we charge to the several services the space used by or for those services in all classes of cars. And then the unoccupied space is apportioned on those same ratios. It is unoccupied space in combination and mixed cars only that we distribute; but the unoccupied space is all in the combination or mixed cars. In that case we use as our divisor not the space in combination and mixed cars only, but the used space in the combination and mixed cars plus the used space in the—that would have the effect of having the ultimate ratio exactly the same as the ratios computed for the actual service performed. I have checked that. I know what I am talking about.

138 Plan No. 2 is the plan which the Commission used in the original case, in the last general case, and in all other cases. I would not want to say that these other plans are plans which have been advanced from time to time by the Department but had never met with the approval of the Commission, because there were various comments made by members of the Commission although they were minority opinions. And perhaps the Post Office Department is of the minority. I realize that the Commission acts by majority—much to our sorrow. It is a fact that the majority never has approved any of these three other plans than Plan 2. It is a fact that I hope the minority may some time become the majority.

In arriving at our total car foot miles charged to express and passenger proper I employed the used basis. The space was measured in the combination cars at certain points on the railroad where it was thought to be an average of the whole route. The first part of the run was not taken nor the last part, because the traffic usually "peters" out along towards the end of the line.

"Q. Doesn't that differ from the method used in some of these other cases? I understood in some of these cases you took the point at which the maximum space was used by the express or baggage and

other service than mail and used that as the total to be used for the entire run of the car in which that maximum space was occupied.

"A. I think that was true. Perhaps in some of these western cases and in the general cases the method I have explained was used."

Points on the line were selected at which the traffic was supposed to be about the average. That was true in this last general mail pay case. That space was measured at those points. We used that space in computing the total car foot miles for the run of that particular car. Every car was measured at least one time on the car run, and in some cases where the runs were large they were measured more than once. But usually they were measured but once on the
139 run. (Tes. pp. 9014–9032.) No attempts were made to pile the express and baggage in the car in any definite way in order to obtain that measurement. In this particular case and in other cases they were measured the way they were piled on the floor of the car. It was the amount of floor space occupied.

(Witness excused.)

DIRECT EXAMINATION

(Statement by Mr. Niess:) Mr. Examiner, the Post Office Department wishes to present at this time certain exhibits showing the financial transactions involved in this case. While we had them prepared as several separate exhibits, we are willing to do the same thing as we did in connection with Exhibit 742, and combine them into one exhibit and refer to them as sheets.

A. H. GILBERT, Chief Accountant, Office of Special Assistant to the Attorney General, Post Office Department, Washington, D. C., testified:

Exhibit No. 743 consists of two sheets and shows for the year 1929 the total car miles, car foot miles, income account, and investment in property for the Georgia & Florida Railroad Company.

Column 3 shows the total amounts. Columns 4 and 6 show the separation between freight and passenger; columns 8 to 13, Plan No. 1, then a similar separation after that for Plan No. 2, then on sheet 2 a similar separation for Plan 3, and also a separation that shows the results with no empty space charged to the mail. The separation of the operating revenues and expenses as between freight and passenger are in accordance with the Interstate Commerce Commission's separation of those items and the separation of the operating expenses. The railway tax accruals and the equipment and joint facility rents are divided under each of these plans in accordance with the space ratios developed and shown in Exhibit 742.

The investment in road and equipment is separated between freight and passenger business allocations and apportion-
140 ments by the same method as used in the General Railway Mail Pay case. The apportionment of those items under the plans is in accordance with the same procedure as used in the General Railway Mail Pay case.

There is agreement between the railroad and the Department as to the revenues and expenses and the investment, so there is no argument there.

I will say that under Plan No. 1 if you will refer to item 30, column 12, it shows a return of 2.80 per cent. Under Plan No. 2 there is no return shown. Under Plan 3 the return is 3.39 and under the plan shown here with no empty space charged to the mail there is a return of 5.82 per cent. I believe that is all the explanation that is necessary in connection with this. With reference to that 5.82 per cent, as to how that compares with the Commission's expression as to what would be a proper net income: It is somewhat higher. On our prorated 60-foot car mile expense figure, line 15, on all of our exhibits we show practically the same amount for passenger proper, express, and mail under all of the plans. I believe it is unusual in that all of them show almost exactly the same thing. Of course, that is obtained by dividing the operating expenses into the car miles shown on line 2, and it just happens that that is how it turns out. It is just one of those things. As to whether it is the same figure charged to mail, that is, the prorated 60-foot car mile expense, under Plan No. 2—this is on Exhibit 746—where we charge more of the unoccupied space to mail and the same figure when we do not charge any of the unoccupied space to mail; in each case it is 35.51 cents: If you will examine the car foot miles shown on Exhibit No. 746, plan 2, and compare them with the car foot miles shown on Exhibit No. 743 for plan No. 2, all of that shown on line 2, you will see that they are pretty nearly the same amount.

141 "Q. But turning to Exhibit 746, sheet 2, your equated 60-foot car miles charged to mail on line 2 is considerably less than that charged under Plan No. 2, yet your expense prorated 60-foot car mile is just the same. Apparently the drop in total railway operating expenses charged dropped in the same ratio as your car foot miles.

"A. That is about the only explanation, because we always work this out individually, that is, without relation to each other, and if the answer happened to be that way that is how it turned out.

"Q. That is apparently peculiar to this particular set of figures?

"A. It may have something to do with the ratios developed. I have explained the outline of Exhibit No. 743."

They are all similar for the three years.

(The documents were received in evidence, marked "Department's Exhibits 743 to 747, inclusive, Witness Gilbert.")

"Mr. Ness. Mr. Examiner, we have another exhibit to offer, consisting of two pages. I will ask Mr. Gilbert to explain that exhibit. Counsel for the carrier has had a copy of it. I don't know whether he wishes to object to it or not.

"Mr. Hitt. We will want to object to this exhibit, Mr. Examiner, as being irrelevant and immaterial. It seems to give certain sta-

tistics of Class I Railroads between 100 miles and 700 miles with regard to certain things concerning the passenger proportion of operations for the calendar year 1930. We do not see that this has any relevancy or materiality in this investigation.

"Examiner MULLEN. What is your point in putting it in, Mr. Niess?

142 "Mr. NIESS. The object of introducing the exhibit is to show that the Georgia & Florida Railroad is not the only railroad so situated in Class I. There has been some reference made to this road being a group of short lines and always being associated with short lines, and with the idea in mind, as we understand it, that they may now be treated similarly to the short lines in receiving special rates. We fear if this were permitted that it would open the door to applications by all roads similarly situated that are small Class I roads. Not only that, but the Department would feel bound to take up with the Commission the question of revising the rates as to other roads which show an excess of earnings above the limit practically fixed by the Commission. This exhibit is therefore offered in the nature of information to the Commission so that they will understand that whatever action is taken in this case may be rather far-reaching. The same rates exactly of mail pay apply on these roads with which comparison is made. And all of these roads show that they are not making a profit, that is, all of the roads listed on this exhibit.

"Mr. WISE. In other words, Mr. Examiner and counsel for the carrier, the Department is not opposing any railroad or anything that is reasonable in the way of a rate at all, but our position is that we cannot look at a railroad individually, because when a railrod perhaps comes to us we have to look at the whole proposition collectively. And this is an indication of our collective problem.

"Mr. HITT. I understand your point of view. But regardless of our objection, we are entitled to just and proper compensation

143 under the Fifth Amendment to the Constitution of the United States, and the inquiry here is as to what is proper compensation to the Georgia & Florida Railroad. There are no statistics in here and no showing of comparability of any of these lines. It is merely a list of lines which it is stated have the same rates of mail pay as the Georgia & Florida. Therefore, if that is all it amounts to, we object to it as being irrelevant, and not having any foundation of comparability.

"Examiner MULLEN. It is a comparison of certain collective statistics pertaining to passenger train operations. It will be received for that purpose.

"Mr. HITT. We wish an exception, because we do not feel that it is proper for the Department to come in in a case involving the facts with regard to the Georgia & Florida Railroad and put this in to influence the Commission, by way of holding out a threat that it may lead to another case of the same kind by someone else. We think it is irrelevant."

(The document so offered and identified was received in evidence, marked "Department's Exhibit No. 747, Witness Gilbert.")

"Mr. Niess. I just wish to remark that in fixing the rates of pay for the transportation of mail by steam railroads in the large mail pay case the Commission arbitrarily divided the roads into
144 classes according to their length, and this road falls into Class 1. In fixing the rates for that class the Commission did not try to give a profit to every road, but they were obliged to use an average. It happens, unfortunately, that this road is below the average, and, therefore, not making a profit.

"Mr. Wise. Might I say just one more word? You see we are compelled to take this view, that as long as the Commission adopted the railway mail pay, from our point of view you are improperly here because you are attacking the whole railway mail pay system.

"Examiner Mullen. The statute gives any road the right to a separate examination.

"The Witness. All of the information shown on here was from the annual reports of the individual carriers filed with the Interstate Commerce Commission. It shows for these 69 railroads the information as indicated under the headings and these roads are selected or were selected from all over the United States, so there is no particular section represented at all. It shows we have others that have a far greater deficit than the Georgia & Florida, and some of them have less.

"Mr. Hitt. Mr. Examiner, we have no further questions of this witness, but we have some rebuttal. It will just take a few minutes to put it in."

145 J. H. Huntt was thereupon recalled as a witness in behalf of the carrier and testified as follows:

DIRECT EXAMINATION

(Statement by Mr. Hitt:) Mr. Examiner, in offering this rebuttal testimony it is in connection with the last exhibit, that is, Exhibit No. 747, to which we have taken exception, and we wish to have it understood that in offering this rebuttal testimony we are not waiving our exception, but inasmuch as it has been overruled we do want to put in this testimony opposed to that so that if our objection is continued to be overruled that this will be considered to be in connection therewith.

"Examiner Mullen. Very well, Mr. Hitt. You may proceed."

Witness Huntt. I heard the testimony of Mr. Gilbert for the Post Office Department, making alleged comparisons of the Georgia & Florida with 69 other Class I Railroads which are between 100 and 700 miles in length with respect to "The Passenger Proportions of Operations for the Calendar Year 1930." That exhibit is No. 747, and while it gives certain statistics of passenger operations for 69 Class I roads of various lengths and types, I do not see anything in that exhibit which indicates how the Georgia & Florida compares

in any way with those roads in its physical and service characteristics. I have statistical comparisons of my own which do not attempt to compare the physical and service characteristics, but they do set out some statistical facts in comparison as to various other roads, together with satistical facts under the same headings for the Georgia & Florida which seem to illustrate the fact that it is a very different property from those roads with which it is compared. These exhibits all relate to carriers which I understand have heretofore received the same rates of pay as the Georgia & Florida and the first exhibit is a statistical comparison between the Georgia &
146 Florida and fourteen large Class I roads of length, passenger car miles, revenue passengers carried one mile, passenger revenue, operating revenue, operating expenses, mail revenue, mail revenue per mile of road, and operating revenue per mile of road. As to how the average mail revenue per mile of road of those fourteen great systems compares with the Georgia & Florida: They average for main and branch line service $641 of mail revenue per mile, while the Georgia & Florida is only $82.00 per mile.

(Statement by Mr. NIESS:) Mr. Examiner, in respect of this exhibit, we will not oppose its receipt for what it may be worth. I wish to call your attention to the fact that they are all over 2,000 miles long, the largest trunk lines in the country and not properly comparable with the line of the size of the Georgia & Florida Railroad. (Test. pp. 9033–9043.) They also receive the same rates of mail pay. As to any great difference in physical aspects or other conditions, there is nothing brought forward here to show that there is such. Even if there were, I don't know just what effect they would have upon this case unless they were very substantially different. At the same time, I offer these few remarks to show the attitude of the Department. We wish the road to receive what it is justly entitled to, but we would like to have all of the facts known and considered.

(The document referred to was received in evidence, marked "Carrier's Exhibit No. 748, Witness Huntt.")

Witness HUNTT. Those fourteen systems average for main and branch line $22.152 of operating revenue per mile of road as against only $2.929 mile for the Georgia & Florida. Class I carriers as a whole average $21.788 per mile, while the Georgia & Florida averages only $2.929, from which it is obvious, of course, that to a very marked and extreme degree the Georgia & Florida is an exceptional carrier in point of traffic volume as compared with other Class I roads.
147 (The document referred to was received in evidence, marked "Carrier's Exhibit No. 749, Witness Huntt.")

I have another exhibit here which makes the same sort of comparison as between the Georgia & Florida on the one hand and 21 of the smaller and/or weaker Class I roads which were involved in the last general mail pay case decided July 10, 1928, and which have heretofore received the same rates of pay as the Georgia & Florida. These are roads which operate from between four hundred thousand and two million passenger train miles. In comparison with these

"weak sisters" of the Class I group, the Georgia & Florida mail revenue per mile is about half or less than that of the others, and the same thing is generally true of the operating revenue per mile. The exhibits in the last general mail pay case show that these particular lines were not being properly compensated. I have made some calculations which show that as the result of throwing these weak sisters into the same classification with the stronger Class I roads that, generally speaking, they had a very large deficiency in their mail revenue. I have not made any calculations as to the present deficiency in mail earnings on these lines. They are not a party to this proceeding, and no similar space statistics have been developed in 1931 to compare with the Georgia & Florida's test results in that year, so I have no data as to their present condition. My point is that these Class I roads with less than two million passenger train miles per annum the Georgia & Florida is exceptional and generally speaking has less than half of the average traffic volume of these "weak sister" roads, and that fact emphasizes the exceptional character of the Georgia & Florida as being markedly sub-normal as contrasted with Class I roads generally in all the respects indicated by these statistics, and therefore it is so exceptional in character that it is impossible to fairly consider it as analogous to Class I lines in general.

148 "Examiner MULLEN. I notice you have a number of roads in here that show no mail revenue. I assume no mail is carried on those roads. Take the Columbus & Greenville, for instance.

"Mr. HITT. That was not available from the data that could be had in that time. These were taken from the Interstate Commerce Commission statistical report for the year 1930, and those roads were Class 2 roads that did not make the same detailed returns that the Class I roads did. They carry mail."

(Statement by Mr. Niess:) Mr. Examiner, I think the witness' testimony in reference to this exhibit relates to general passenger service and does not distinguish between the mail revenue. In other words, I think it is well to have him say something about mail revenue as compared with the other roads, that is, a comparison of the Georgia & Florida with the other roads shown on Exhibit No. 749. The next column to the left, Account 106, Mail Revenue, at the bottom of the list, the Georgia & Florida shows 40,096, and the point was to call attention to the comparison of that figure with the figures of the other roads. It is shown on the exhibit. I do not wish to ask any questions about it. I am just making the explanation myself. If the witness wishes to modify it or question it I have no objection. The only point I had was to call attention to the fact that the mail revenue, Account 106, for the Georgia & Florida was comparable to the revenue of the other roads where it is shown, with reference to their size and business.

Witness HUNTT. Referring to the last column, average operating revenue per mile of road, it will be noticed that the Georgia & Florida is $3,475 per mile, the Ann Arbor, and Bessemer & Lake Erie are

$14,000 and $6,400 respectively, and if you go on down the line you will realize that these roads are not in the same category at all
149 with the Georgia & Florida when it comes to traffic. That average operating revenue per mile of road includes all traffic.

(Statement by Mr. Niess:) My point is that the mail revenue for the Georgia & Florida was very comparable with the revenue for the other roads as stated here, taking into consideration their length and their passenger traffic as a basis of comparison. I notice in the column at the righthand side that the mileage varies very greatly.

"Mr. Hitt. That this was to get as closely as possible to the same number of passenger train miles, and that is reflected in the total mail revenue, and when you work it out to average per mile of road you get a very different result.

"The Witness. The average mail revenue per mile of road on the Georgia & Florida is $82.21. Starting with the Ann Arbor it is $179, the Bessemer & Lake Erie $121, the Charleston & Western Carolina $106, and the Clinchfield $135, which would indicate that when you get down to the same length of line it is still not comparable.

"Mr. Niess. But, Mr. Examiner, wouldn't that depend upon the amount of service? For instance, the Ann Arbor road is through a country that is fairly thickly populated and there is a great deal of business and there are a great many business enterprises there, whereas the Georgia & Florida does not have the same relative population and same relative amount of mail service. And wouldn't that be affected by this element?

"Mr. Hitt. Certainly we suggest it might be affected. We are showing here that this is a road of light traffic volume, and so light and so abnormal as compared with the Class I roads that there is no comparison.

"Mr. Niess. I am willing to let it go for whatever the Commission thinks it may be used for, or for whatever value it has."

(Witness excused.)

"Examiner Mullen. Briefs will be due July 30, 1932."

(At 1:00 o'clock p. m., the hearing was closed.) (Tes. 9044–9050.)

150 Narrative of Testimony Introduced at Reopened Hearing in

Docket 9200

Railway Mail Pay

In the Matter of the Application of the Georgia & Florida Railroad for Increased Rates of Pay

Before Examiner F. E. Mullen

Washington, D. C., *June 24, 1935.*

Appearances: William C. O'Brien and A. H. Gilbert for Post Office Department. Moultrie Hitt and G. Kibby Munson for applicant.

Statement by Examiner Mullen

This is a reopened proceeding, reopened upon the Commission's own motion by order dated March 12, 1935, in Docket No. 9200, In the Matter of the Application for Increased Rates of Pay, filed by the Georgia & Florida Railroad. This proceeding has been reopened generally and for the purpose of augmenting the record in any way that the parties desire.

Chas. H. Stephenson testified:

DIRECT EXAMINATION

I am employed by the Post Office Department as statistician in the office of the Second Assistant Postmaster General. I prepared some of the exhibits in the original hearing on this case, including Exhibit No. 742. I have prepared supplementary figures with respect to Post Office Department Exhibit No. 742.

(The supplemental exhibit was received as Exhibit No. 759.)

151 (A copy of the rules governing the separation of operating expenses between freight service and passenger service on large steam railroads, issued on January 1, 1920, by the Interstate Commerce Commission, was received as Exhibit No. 760.)

Exhibit No. 759 brings up to date certain information shown on pages 1 to 4 of Exhibit No. 742 filed in the original proceedings.

This is filed for the information of the Examiner and shows mainly that the Georgia & Florida Railroad performed practically the same mail service and received practically the same compensation as received during the year 1931.

Page 2 shows the authorized mail service as of June 20, 1935. Authorizations remained practically the same until October 15, 1934, at which time the branch between McAdoo Junction and Tennille was abandoned causing the discontinuance of the 15-[foot] apartment car mail service between Augusta and Tennille on those trains which operated between those two points. The annual rate of pay was decreased $7,561.14 on account of this discontinuance.

The figures in the last four lines on page 2 show the service performed on the route 104878, which is compensated for at the minimum rate of pay of $72 per mile. The pay stated in the third column from the last is the space rate of pay, that is the rate they would have received at space rates.

Page three of Exhibit No. 742, filed in the original proceeding showed the separation of passenger cars between strictly passenger cars and combination cars. Owing to lack of time as this information had to be secured direct from the Georgia & Florida Railroad the separation between passenger and combination cars could not be developed. The annual reports of the company on file with the Commission show, however, that no sleeping or dining cars were operated during the past three years.

The passenger car miles decreased from 847,161 for the year 1931 to 537,344 for the year 1934, a decrease of 37 per cent.

152 In Exhibit No. 743 it showed the freight car miles as 1,744,496, that is for the year 1929. Exhibit No. 744 showed freight car miles of 7,812,176. Exhibit No. 745, for the year 1931, showed 6,964,125, and the present exhibit, No. 759 shows the freight car miles for 1932 as 5,227,376, a considerable reduction under 1931, but there is an increase in both years, 1933 and 1934. In 1934 the freight car miles were 6,593,391.

I mentioned before a decrease in the authorized railway mail service miles. I have not computed what percentage of decrease that is compared with the prior ascertainment in 1929, but there is a decrease of $7,561, and the annual rate of pay then was $35,039, a decrease of over 20 per cent. That was due to discontinuance of service on the branch line as of October 15, 1934.

To explain page 4 of this exhibit: The miles of mail service performed on this railroad, especially in 15-foot apartment cars has been decreased in 1934, due to this discontinuance on October 15, 1934. The difference between that shown for the full year 1933 and that for the year 1934 is caused by the discontinuance of this R. P. O. car service between Augusta and Tennille. That is the calendar year.

On page 1 I showed the mail pay for 1934 was $34,947.41. That does not take into consideration the decrease in pay due to the $7,000 because this is on the fiscal year basis ended June 30, 1934. If it were on a calendar year basis the decrease would be reflected, but it is not reflected because it is on a fiscal year basis.

To explain Exhibit No. 760: This is a pamphlet of 13 pages covering the rules governing the separation of operating expenses between freight service and passenger service on large steam railways, issued in 1920.

153 The order of the Interstate Commerce Commission dated December 1, 1919, requiring steam railways whose revenues exceeded $1,000,000 per annum, of which the Georgia & Florida is one, is shown on page 5 of this pamphlet. These rules were in effect during the year 1931 which covered the period of cost study on this railroad in the Georgia & Florida Railway Mail Pay Case filed with the Interstate Commerce Commission on April 1, 1931.

I have prepared an exhibit illustrating the method of allocating the operating expenses, and a further separation of those expenses between passenger service and mail.

(Exhibit No. 761 was received in evidence.)

To explain this exhibit: The purpose is to show that the operating expenses of the Georgia & Florida Railroad were separated between freight and passenger services, principally through apportionment, and secondly, to show that the expense thus charged to passenger service was again apportioned to the mails. As there were no expenses that could be directly charged to the mails, the entire amount was based on apportionment. Going back to the full explanation of

the exhibit, this is a statement showing the method of allocating and apportioning the railway operating expenses of the Georgia & Florida Railroad for the year 1931 between freight service and passenger service, first, and secondly, the method used to further separate the passenger operating expenses thus obtained between passenger, express and mail service. In this particular exhibit the basis of separation of passenger operating expenses between passenger, express and mail services is known as Post office Department Plan No. 2.

Column 1 shows the primary account numbers.

Column 2 shows the general and primary account headings.

Column 3 shows the rule governing the separating of the account or group of accounts betwen freight service and passenger
154 service and is copied from the pamphlet introduced in this case as Exhibit No. 760.

Column 4 shows the total operating expenses of the Georgia & Florida Railroad for account numbers for the year 1931. These figures are shown in the annual report to the Interstate Commerce Commission as well as on R. M. P. Form No. 1, which was furnished the Postoffice Department by the railroad company.

Column 5 shows separately the amounts not related to the mail-pay inquiry.

Columns 6 and 7 show the separation of the amount shown in Column 4 between freight and passenger service in accordance with the rule shown in Column 3.

The totals shown by account numbers include directly assigned expenses and apportioned costs. The totals in Columns 6 and 7 are copies from the reports rendered by the Georgia & Florida Railroad to the Postoffice Department on Form No. 51.

The annual report of the Georgia & Florida Railroad on file with the Interstate Commerce Commission for the year 1931 shows separately by account numbers the amounts directly assigned and the amounts apportioned to freight and passenger service under the rules prescribed by the Commission.

The total of Column 6, page 7 of this exhibit, the last page, relating wholly to and apportioned to freight service is $1,042,948.07, of which $450,842.06 was directly assigned and $592,106.01, or 56.77 per cent was apportioned.

The total in Column 7, page 7 of this exhibit, relating wholly to and apportioned to passenger service is $284,667.46, of which $113,992.17 was directly assigned and $170,675.29 or 59.96 percent was apportioned.

Column 8 of this exhibit shows the basis of the separation of the amount directly assigned and apportioned to passenger
155 service shown in Column 7. With the exception of $1,295.05, traffic expenses charged directly to passenger proper, all expenses shown for passenger service was apportioned on car foot miles ratios developed in accordance with the basis shown in Column 12, page 1 of this exhibit.

The Department in the former hearing presented evidence showing the effect of three plans, and in addition thereto, it showed also the effect when no occupied space was charged to the mails.

Under each of the three plans all operating expenses relating exclusively to passenger, express, and mail services were assigned to the class to which related.

Common expenses were divided on car-foot mile ratios developed from the space study, the data for which having been secured during the test period, September 28 to October 25, 1931.

As previously testified to, there were $1,295.05 directly assigned to passenger proper. There were no direct charges to express and mail services; therefore, 100 per cent of the amount charged in Column 10, page 7, to express, and column 11, to mail, was apportioned.

The plan used in this exhibit for illustration, known by the department as Plan No. 2, is as follows—and this is put in for the purpose, of course, of having the record complete; in the preceding case this plan was not explained in full——

The car foot miles for all full cars devoted to passenger, express, or the mail services, were charged to the service for which operated. The car-foot miles for passenger and mail apartments in cars were charged to the respective services. The car-foot miles of occupied space in the baggage end of the combination cars and in mixed cars were charged to the services using such space and the car foot
156 miles of unoccupied space in combination and mixed cars were apportioned to passenger, express, and mail services on the ratios of used space in such car.

The ultimate ratios in accordance with this plan were passenger 80.35 per cent; express 6.69 per cent, and mail 12.96 per cent.

Now this, of course, was after a formal adjustment was made, as explained in the previous hearing.

These percents were used to apportion the amounts shown in column 7 of the exhibit producing charges to passenger, express, and mail shown in columns 9, 10, and 11. (Test. 9190–9200.)

As to whether that means that no special studies were made to determine whether any direct expenses to express and mail could be determined: At the time that this study was made, the railroad reported that there was not any it could so charge, and evidently none was charged.

Referring to Exhibit No. 761, where I call attention in notes on page 7 to the fact that note A and note B show a certain proportion of the expenses were apportioned and others directly assigned: The significance is this: In this case, that was heard by the three judges, that is in the report of this case they said that for every dollar that the company earned in mail service, they paid out a little over $1.02, and this is for the purpose of showing that these charges were not actual charges but were based on direct charges, where possible, but mainly upon apportionments.

"Examiner MULLEN. I gather from what you say, then, that you mean that if this service were discontinued that all of the expenses

shown on here would not necessarily be saved by the railroads. Is that your point?

"The WITNESS. If the railroad continued to operate the same train service and the same cars for other railroad purposes they could not expect to save very much by it."

157 I would not say that they would not save anything at all, because there are certain charges, perhaps, that would not be as great. In the operation of the train, it may be that they would change the consist of the train and eliminate certain charges. They might eliminate this combination car entirely or else perform the entire service in a combination car. I am not saying that they would save the entire cost of the operation of a train. In any event, my point is that they would not save the amount shown on this exhibit, assuming that the service is the same as it was during the test period.

"Examiner MULLEN. Have you any opinion or any figures to indicate how much would be saved and how much would be still incurred if the service were discontinued?

"The WITNESS. There were no direct charges to the mail service, and if it was all apportioned it would seem to me that if the employees were paid the same rate of pay, that nothing could be saved in the salaries or wages of the employees.

"Mr. HITT. Mr. Examiner, is not that pretty speculative?

"Examiner MULLEN. Yes, it is.

"Q. (By Mr. HITT.) Your point is, that if the method of apportionment which has been used in all other cases were discarded and you were trying to find out what the out of pocket cost would be for handling the mails, over and above what the railroad would have to have if it operated the same trains, some different result would be obtained?

"Mr. O'BRIEN. Just a minute. I do not think that is a fair statement of the position taken by the witness in answering the Examiner's question. It is a misinterpretation of his position. As I understand that position, it is this. That without discarding Plan No. 2, but even on the basis of Plan No. 2, the figures do not necessarily show—the figures may seem to indicate, but the actual

158 result is not that the railroad receives only one dollar for each $1.0279. Is that not the idea, Mr. Stephenson?

"The WITNESS. Yes, and I think the Examiner asked if all of this would be saved, if the mail service were discontinued, and I tried to say that all of it would not, but a certain per cent, no doubt, would because it took practically the same overhead expense to operate that train.

"The WITNESS. Of course, it would follow that if some other classes of service were discontinued and the train were operated wholly for mail or for mail and express, it would change the figures in a similar way, but the chances are that the Department would not keep the mail services in there. That condition would not develop; all that is entirely speculative.

"Examiner MULLEN. To the extent that there are changes made, as the witness pointed out, by discontinuing the operation of R. P. O. car, there would be a saving, insofar as the operation of that particular car is concerned. But if the trains continued to be operated, there would be a very large amount of the expense still incurred. That, I take it, is the opinion of the witness.

"The WITNESS. Yes, that is right, and, of course, if the consist of the train changed, that is, if they carried a fewer number of cars in the train, the expense charged to that train, of course, would be less.

"Mr. HITT. My point is, Mr. Examiner, we object to all that, being based on no facts, and being purely speculative, because it is not addressed to a period before us, in the test period, or any other, but is some hypothesis which does not exist.

"Examiner MULLEN. We are trying to get the significance of these figures. Have you anything further, Mr. O'Brien?

"Mr. O'BRIEN. Yes, sir.

"The WITNESS. I have prepared a further exhibit showing the method of separation of the investment in property, between freight and passenger, and a further separation of the passenger investment, between the passenger express and mail service. Those are the figures which I compiled myself.

159 "Mr. HITT. Mr. Examiner, before the witness proceeds to testify about this exhibit and some of the others, I want to call attention to the fact that this does not add anything to the evidence which has been given in the previous case. It is a recast of the figures and it is entirely argumentative. Now, so far as we are concerned, we have no objection to an exhibit being made up and put in here for the convenience of the Examiner and the Commission, making any recasts you might desire, but we also want to say that we will ourselves have some exhibits which are argumentative, and that we would like to have the privilege of putting them in in the same manner.

"Mr. O'BRIEN. Before the Examiner grants that privilege, Mr. Hitt, would it not be well to state that the exhibits which you consider argumentative are part and parcel of the brief which you filed in this case as exceptions?

"Examiner MULLEN. We can take that up when they are presented.

"Mr. HITT. I wanted to call attention to the fact that this is argumentative. We have no object to it, but we also want to offer exhibits of our own of a similar character.

"Mr. O'BRIEN. It is illustrative rather than argumentative."

(Tr. 9206–9207.)

160 (This document was received as Exhibit No. 761.)

Exhibit No. 762 is made up from the figures put in the record and derived from figures of the test period. The purpose of this exhibit is to show the method of separating the investment in property between freight and passenger, and on passenger between passenger, express and mail.

The record in the other case did not show just how this investment in property was separated. It did show the separation. It showed the amount of the value of the investment, after it was separated, but it did not show how it was done. That was all shown in preceding cases, and this is for the purpose of showing the method of separation, just to complete the record.

The investment in road was separated between freight and passenger services on operating expense ratios. The amount thus apportioned to passenger service was further apportioned in passenger proper, express and mail, on operating expense ratios, the ascertainment of which being based on direct assignments were possible, but on apportionments principally.

The investment in equipment was separated between freight and passenger service through direct assignments. The separation of investment in passenger equipment between passenger proper, express and mail was by direct assignment to passenger service of $39,575.87 and to mail service of $225. The remaining amount was apportioned to passenger, express and mail on mixed and combination car-foot mile rates, developed under Plan No. 2.

The separation of equipment, depreciation, was on ratios for final equipment separation. Of the total investment relating wholly or apportioned to freight service, $13,675,425.53, shown in column 5, or 91.13 per cent was based on apportionments.

Of the total investment charged to passenger service, column 6, $3,536,834.68, or 96.18 per cent, was based on apportionments.

161 Of the total investment charged to mail service, column 10, $447,082.70 or 99.95 per cent was based on apportionments. I have prepared a further exhibit showing the compilation of figures as illustrating the comparison of the expense per car mile and car-foot mile for passenger service as a whole compared with revenue received or the transportation of the mail per car mile and car-foot mile, for the calendar year 1931.

(Exhibits Nos. 762 and 763 were received in evidence.)

Exhibit No. 763 is a statement showing the comparison of expenses per car mile and per car-foot mile for passenger service as a whole, with the revenue received for the transportation of mail per car mile or car-foot mile for the Georgia & Florida Railroad for the calendar year 1931. Column 10, or item 10, shows the average passenger car-foot mile expense as 0.6573 cents. Item 11 shows the average mail revenue per car-foot mile as 1.0297 cents. On the assumption that it did not cost the Georgia & Florida any more for the movement of the passenger car space devoted to the mails than it does for the average movement of all passenger cars, the excess revenue over cost per car-foot mile would be 0.3724 cents, as is shown in item No. 13.

The average passenger car mile expense is shown in item No. 9 as 36.32 cents. The length of the average passenger car operated during the period of the study was 55.26 feet, shown in item No. 14. There were no full mail cars operated, but if the excess revenue over

our per car foot mile of 0.3742 cents were applied to the average length of car supplied, the excess revenue over cost per car mile on this hypothesis would be 20.58 cents, as shown in item No. 15.

As to what result would be obtained by applying that to all car miles: That would be produced by dividing column 8 by the average length of car shown in column 14, which produces 62,790 car miles, and then you multiply that by 20.58 cents, and that would produce $12,922.

(Test. 9200–9211.)

162 This $12,922 represents the excess revenue received for the transportation of the mail for 1931 over the average cost for the same number of miles for passenger service as a whole. The item relating to the investment in property is not considered in this.

That means that if the present consist of a train were solid mail, there would be that much profit. If a car of 55.26 feet in length, which was the average length car, were operated, and the cost of the movement of that car was the average cost for hauling of passenger cars, then there would be a profit of 28.50 cents per car mile. The revenue would be $12,922 more than the actual cost. I am not talking about a solid train of mail; a movement of mail in an average length car, at an average cost, average passenger car cost.

"Examiner MULLEN. That is the amount of mail moved in this particular test period, or rather the test period reflected here? In other words in your answer, as I understand it, you took the situation where all of the mail now carried was carried in full cars?

"The WITNESS. Yes. Now, of course, the mail service on the Georgia & Florida Railroad is performed in 15-foot apartment car service.

"Examiner MULLEN. And 3-foot closed pouch. Now, if they performed a full car service, full 60 foot car service, the rate would not be four times 14.5 cents, or 58 cents a mile for the movement of the 60 foot car, but would be 40.5 cents. I think that is the rate per mile. So that in answer to your question, we would have to give consideration to the cost for the movement for a 60 foot car of mail.

"Mr. MUNSON. I was trying to get at where the $12,000 came from. I do not yet understand it.

163 "Q. (By Mr. O'BRIEN.) As I understand it, that is the application of the excess revenue above operating costs, shown by item 15 of Postoffice Exhibit No. 763, applied to the total car mile mail movement. Is not that right?

"A. Yes. The total authorized mail service is shown in column 8. That amount, that number of car foot miles, was performed during the year 1931. Now in the data furnished by the railroad company to the Department on forms Nos. 401, 402, 403, and 404, it showed that the average length of car was 55.26 feet. To produce the number of average length cars of mail service, you would necessarily divide the car-foot miles, shown in column 8, item 8, by the average length of car shown in item 14, producing car miles of mail

service based, of course, on an average length car of 55.26 feet. If there was a profit, or in other words, if the excess revenue over cost per car mile for one car-mile would be 20.58 cents for 62,790 car miles, it would be that many times that or $12,922."

Plan 3 has nothing whatever to do with it. No plans enter into this. Plan 3 apportions unused space on basis of used space in the train. If you mean the last plan shown on Exhibit No. 745, that plan produces a showing on basis of no charge of unoccupied space to mail, but it was not plan No. 3. We did not give that a number. Asking whether we would reach the same result had we followed that plan of no unused space in apportioning the mail: That does not enter into this at all, because we are not considering unoccupied space at all.

In my car mile expense, average passenger car mile expense, all the space is included. We do not eliminate it. The exhibit is based on the average car mile expenses for passenger train service as a whole. When I speak of average passenger car mile expense, I do not mean exclusively passenger, but I mean the average passenger car service expense; passenger train car. The mail service is carried in
164 cars whose average operating cost is 36.32 cents a mile, for all space operated including used and unused. In the figure I used for mail, I only use the amount of space authorized for mail service.

(By Mr. O'BRIEN.) That concludes my explanation.

(Exhibit No. 763 was received in evidence.)

I have prepared a further exhibit comprising a comparison of the revenue per pro-rated 60-foot car mile for the year 1931 for passenger, express and mail service under Plan No. 2.

(This document was received in evidence as Exhibit No. 764.)

Exhibit No. 764 is a comparison of the revenue per pro-rated 60-foot car mile for the year 1931 (1) for passenger, express, and mail services under Plan 2, page 1, Exhibit No. 745 in this case and (2) comparison of the revenue per pro-rated 60-foot car mile for mail service on the basis of authorized space only without inclusion of an apportionment of unoccupied space, with the revenue per pro-rated 60-foot car mile for all other passenger services on the basis of the full charge thereto of all unoccupied space, sheet 2 of Exhibit No. 745.

Under plan No. 2, the pro-rated 60-foot car mile revenue for passenger service was 5.66 cents; for express 14.20 cents, and for mail, 34.49 cents. The percent of mail revenue to passenger revenue per 60-foot car mile was 609 percent. In other words, the revenue received per 60-foot car mile for mail service was over 6 times that received from passenger service. The mail revenue per pro-rated 60-foot car mile was 2½ times that received from express service.

On the basis of authorized space, the revenue for mail service per 60-foot car was 61.82 cents. For all other passenger service with inclusion of unoccupied space the 60-foot car mile revenue was 5.92

cents. On this basis the revenue from the mails was over 10 times that received from other services. These figures are all taken from previous exhibits.

165 No element of expense is involved in this comparison; it is purely a revenue comparison.

Referring to Exhibit No. 764: The upper schedule shows prorated 60-foot car mile revenue under Postoffice Department Plan No. 2 as 34.39 cents, and the lower part of the schedule shows the prorated 60-foot car mile revenue for mail on the basis of authorized space as 61.82 cents. The explanation of the two figures is that the difference in revenue per car mile is caused by the unoccupied space, a portion of which was charged to the mails in the top bracket.

"Q. (By Mr. O'Brien.) As I understand Plan No. 2, that unoccupied space is charged to the mail, while it may actually be used to some extent for some other service, is that right? In other words, if they have a full car of express some day, they can use that unoccupied space to put it in, although the postoffice department is charged with that proportion of the unoccupied space, is not that true?

"A. Yes, that unoccupied space there is for use of any service performed on the railroad."

"Mr. Hitt. The test period selected was considered representative of actual conditions, was it not, Mr. Stephenson?"

"The Witness. As adjusted it was fairly representative of actual conditions on that road.

"Q. (By Mr. Hitt.) And the test period itself was selected by the Department, was it not?

"A. It was selected by the Department in conference with you, or another representative of your office.

"Q. It was a satisfactory period, accepted by the Department as being representative of the conditions on that road, after having looked into the situation to see whether it would be representative?

166 "A. It was thought to be as nearly a representative period as we could get." (Tr. 9218.)

The Witness. Plan No. 2 was not selected by the Department. Reference is made to Exhibit No. 742, Sheet 7, in which the ratios for passenger, express, and mail services for the years 1929, 1930, and 1931 are set out under Plans 1, 2, and 3, and under the plan of charging no unoccupied space to the mails.

Paying particular attention to the year 1931 the ratios for passenger, express, and mail for the four different plans are as follows:

167 Plan 1. Passenger 74.88 per cent, express 16.16 per cent, mail 8.96 per cent.

Plan 2. Passenger 80.35 per cent, express 6.69 per cent, mail 12.96 per cent.

Plan 3. Passenger 86.66 per cent, express 4.54 per cent, mail 8.80 per cent.

It is observed that under plan 2 of apportionment which was adopted by the Commission in previous cases, mail is charged with a higher percentage of space than under either plan 1 or plan 3.

The explanation of plans 1 and 3 is as follows:

Plan 1: The car-foot miles for all full cars devoted to passenger, express, and mail services were charged to the services for which operated. The car-foot miles for passenger and mail apartments in combination cars are charged to the respective services. The car-foot miles of space occupied by baggage-express, and mails in mixed cars and in the baggage end of combination cars, are charged to the respective services and the car-foot miles of unoccupied space in baggage cars, and in the baggage end of combination cars, are apportioned on the ratio of occupied space in the baggage cars, and baggage end of combination cars.

Plan No. 3 is as follows:

The car-foot miles for all full cars devoted to passenger, express, and the mail services; the car-foot miles of space in passenger and mail apartments, and the space occupied by baggage, express, and mail, are charged to the respective services. The car-foot miles of unoccupied space in baggage cars, and in the baggage end of combination cars, is apportioned on the ratios of used space in the train. In other words, in plan 1 the open space in the train is the basis for the unit. That is Plan No. 1. That is, we apportion the unoccupied space on basis of the used space in the open end of the baggage cars and in the mixed cars. In plan No. 3 the unit is the train.

168 In plan No. 2, going back to that plan adopted by the Commission, the combination and mixed cars are the units.

(Statement by Examiner Mullen:) On Plan No. 2 the car is the unit used throughout, and under Plan No. 3 the train is the unit, except that the unused space to be apportioned is the unused space occurring in the mixed cars only. (Tes. 9211–9222.)

CROSS EXAMINATION

"Q. (Mr. Hitt.) Mr. Stephenson, it is the duty of the Postoffice Department, is it not, to see to it that the apportionment of railway operating expenses and revenues and the division of apportionments of investment are made in a manner that will produce a fair result for the Postoffice Department in a Railway Mail Pay Case?" (Tr. 9222.)

The Witness. We have nothing whatever to do with the apportionment of operating expenses between freight and passenger, because we follow the rule established by the Interstate Commerce Commission. Whether or not that is fair and equitable, I do not know. We do not question the rule of the Commission. We accept it as the best basis that the Commission has been able to devise for their own purposes. I have never been able to devise any better basis; I have never tried to devise any better plan. I took the apportionments as I found them. The Postoffice Department has never made any attack upon the fairness of that basis.

"Q. (By Mr. HITT.) Now, in these exhibits, particularly your Exhibit No. 761, the figures which you have shown there would be the same with regard to apportionment, whether Plan No. 1, or Plan No. 2, or Plan No. 3, or Plan No. 4 were applied to that, would they not?

"A. What figures are you talking about?

"Q. The calculations which you made as to how the apportionments were made. They would have to be made in that manner, whether you used Plan 1, 2, 3, or 4, or the unnamed plan?

"A. Yes; in columns 6 and 7.

169 "Q. (Mr. O'BRIEN.) That is only as between freight and passenger, is it not?

"A. (The WITNESS.) Columns 6 and 7 are between freight and passenger. It would be used in any plan of separating the operating expenses.

"Mr. O'BRIEN. In other words, Mr. Stephenson, I understand plans 1, 2, 3, and 4, which Mr. Hitt mentioned, do not come into the picture until you get beyond Column 7.

"The WITNESS. That is right."

In this case the test period was selected, as well as could be determined by both parties, as being representative, and after that test period was run, the Postoffice Department made its calculations and compared same with the year's figures, which indicated to the mind of the Postoffice Department that in order to make it absolutely fair that some adjustments should be made in favor of the department. All of those adjustments were granted by the Georgia & Florida. There were no differences left in dispute between the railroad as to the correctness of the figures as shown by the test period. I am speaking of the space figures, the test figures. We did question the application of Plan No. 2. That is where we differed with each other.

REDIRECT EXAMINATION

"Q. (By Mr. O'BRIEN.) As to the question which Mr. Hitt asked on cross examination as to whether or not the Georgia & Florida representative did not express harmony with the adjustments which you had made on the space at the time of the study, upon the basis of a full year's figures, was not the fact, Mr. Stephenson, that the adjustments made by the Postoffice Department in that respect were satisfactory adjustments, to which they expressed no objection at all, and had no basis for it?

"A. It was the most equitable basis that I could devise, and

170 because it was, I think that the representatives of the railroad company accepted that basis." (Test. 9222–9226.)

(Witness excused.)

J. L. Fulghum, testified:

DIRECT EXAMINATION

I am Chief Clerk, Railway Mail Service, District No. 2, Fourth Division, and I live in Atlanta. My division includes the Georgia &

Florida Railway. I think I am familiar with the handling of railway mail on that railroad. We have a 15-foot apartment car authorization in trains four and five between Augusta and Valdosta. Those are daily trains. One train runs each way. We have three foot closed pouch authorization in trains 17 and 18 between Valdosta and Madison. We have three-foot closed pouch authorization in trains Nos. 43 and 44 between Midville and Statesboro. We have a three foot closed pouch authorization on a short line between Douglas and Broxton.

I have general supervision and administration of the railway mail service in District No. 2, as relates to the authorization of space, clerical service and mail messenger service. I made a complete inspection of the service on this line on March 14, 1935. When I made that inspection, I traveled in the regular mail cars. As to the data we seek to obtain as to the use of space when in the railway mail cars: We make notes and records of the space that is used for the accommodation of the mail, and the extent of the use of the distribution facilities, and we also make note of the unemployed time, if any, of the clerks assigned to the room. The 15-foot apartment unit is authorized in those trains daily, because that is the minimum unit which may be authorized. On the date of the inspection we were operat-
171 ing a 30-foot apartment car. I find that an analysis of the inspection sheet that in train No. 5, going south between Augusta and Vidalia, which is about one-half the distance of the line, the storage space that was in the unit authorized—not the one operated—but figuring on the basis of the storage space available and the 15-foot apartment car unit, which is authorized, on that date between Augusta and Vidalia, it was occupied 30 per cent. The distribution facilities of the 15-foot apartment car called for 144 letter separations and 49 paper and pouch separations.

Between the same points the facilities for letter distribution were used 37 per cent, and paper and pouch distribution 77 per cent.

Now for the lower end of the run between Vidalia and Valdosta, the storage space was used 20 per cent, the letter distribution facilities 42 per cent and the paper and pouch distribution facilities used 47 per cent. That is for train No. 5.

For train No. 4 on the return trip, for a short distance out of Valdosta, as far as Nashville, storage space authorized—of course, you understand I mean the available storage space in a 15-foot apartment car and not the storage unit. But on the available storage space in the apartment car, it was occupied 66⅔ per cent from Valdosta to Nashville, a distance of about 28 miles. From that point to Vidalia, 20 per cent, and from Vidalia to Augusta 20 per cent. The distribution facilities from Valdosta to Vidalia in letters were used 43 per cent, and papers 33 per cent.

From Vidalia to Augusta the letter distribution facilities were used 82 per cent and papers 50 per cent. It would seem that the distribution facilities are used to the greatest extent on train No. 4 between Vidalia and Augusta, a distance of approximately 101

miles. Trains Nos. 4 and 5 are mixed passenger and freight service. As to which predominates, passenger or freight service: I presume that that varies with the days of the week.

172 "Q. I am asking as to the days of the week you traveled.

"A. Of course, the consist of trains does not enter into our supervision of the jurisdiction except in the case where storage units are authorized in the train, we are required to keep a record of the consist of mail, baggage, and express cars which may carry mail, but my recollection is that on this date there were seven or eight freight cars in addition to the passenger equipment used.

"Mr. O'BRIEN. As I understand the situation, Mr. Examiner, in 1931, when this special study was made, it was a straight passenger train. I think the record shows that.

"Examiner MULLEN. Is that true?

"Mr. HITT. Yes; that is correct."

The WITNESS. I cannot state positively whether they did any switching of these freight cars on No. 4 and 5 en route, but I am pretty sure. That is my impression. I cannot remember as to whether I saw any switching done in the days when I was on it.

A 15-foot apartment car of standard size and specifications provides storage space for an estimate of 50 sacks of mail. I think the actual linear feet of storage space is perhaps 3.2. Asking what we do, if we have 51 sacks of mail: If the car operated is of the type and size operated, there is no restriction as to the use of the facilities which it provides. If there are only 10 sacks in there, why, we pay for it, and if we can get 60 in there, why, we have the privilege. As to oversized cars: The situation is different; if the company supplies an oversized car in lieu of a car of the size authorized, we are restricted to the use of the actual facilities provided in a car of the size authorized. In other words, we are not permitted to take more than 50 sacks of mail into the car, if it is an oversized car, without paying additional space. If we have more than 50

173 sacks of mail, we have to authorize additional storage space, an emergency unit; of course, in some cases where oversized cars are operated regularly, storage units are authorized in connection with them. The minimum unit of authorization is 3 feet. I think this 30-foot R. P. O. car operated on this particular line is regular. That is, we regularly authorize 15-foot R. P. O. and the railroad furnishes us with a 30-foot R. P. O. apartment, non-standard. It is preferable that the Postoffice Department be furnished cars of the size authorized, but they do not enter any objection when oversized cars are operated.

"Q. (By Mr. HITT.) What is the advantage, Mr. Fulghum, in having a smaller space? Is it not more advantageous to have more separations and larger space in which to make your separations?

"A. Because when the authorization is for a 15-foot apartment car unit, very few separations are needed, and a car of larger size just is excess baggage to walk about in.

"Q. Just a little bit more space, but it does not offer any other disadvantage?

"A. It does, to some extent, because clerks are required to keep record of all mail that comes in there. They have to keep account of it. That is something else in addition to any number of other things. They have got to keep track of it and a record of the sacks and outside parcel loadings to do it." (Tes. 9226–9234).

In other words, in order to determine if you exceed a storage space of 15 feet, and another thing, in using distribution facilities, you have got to be sure that they confine themselves to 144 letter box separations and 49 paper and pouch separations. They may not use the remainder of the 30-foot car. Asking whether the railway mail service on the Georgia & Florida could be performed in a smaller unit than 15 feet: If there was such a unit, one would be applicable to that line. If there were a 12-foot apartment unit, it could be done in that, because, as I have shown here, the dis-
174 tribution facilities, or storage space used will not average over 50 percent limit, taking the cars and the maximum volume received on any portion of the line. I cannot answer as to what is carried in the other end of that car; I presume they carry baggage and express, but I am not sure.

(Statement by Mr. Todd:) On No. 4 and 5 it is just baggage and express.

"Q. (Mr. HITT.) Mr. Fulghum, did you make more than one trip?

"The WITNESS. This is the only record that I have. I have been along the line, of course, more times. This inspection was made since the discontinuance of the McAdoo Tennille Branch, which had some effect on the whole line. It reduced somewhat the amount of mail that these main line trains carry, because they had connections over that branch.

"Examiner MULLEN. Why was that service discontinuance?

"The WITNESS. The company abandoned that road.

"Examiner MULLEN. The whole branch operation was abandoned?

"The WITNESS. Yes, sir. That was, I think, in October of last year.

"Q. (By Mr. O'BRIEN.) What did the Postoffice Department do with respect to the mail service that was abandoned there by the railroad?

"A. I beg your pardon?

"Q. What did the Postoffice Department do to take care of the mail on the McAdoo Tennille Branch?

"A. It is being served by star route.

"Q. (Examiner MULLEN.) Did you make any inspection of the operation during the test period that was used in this case; that is, 1931?

"A. No, sir.

"Q. Did you participate in that test?

"A. No, sir." (Tr. 9235-9236.)

175 The WITNESS. As to how much it cost the Postoffice Department for the McAdoo Tennille star route service: The star route extends the entire length of the line from Augusta to Tennille, with the exception of three miles between Sanderville and Tennille. Formerly there was a 15-foot apartment car authorization on Trains Nos. 21 and 22 between Augusta and Tennille, and 3-foot storage unit authorization on certain days of the week out of Tennille.

This particular branch of the Georgia & Florida Railroad was stated as between McAdoo Junction and Tennille, but the operation of train service was from Tennille through to Augusta, proceeding from McAdoo over the same tracks as main line trains Nos. 4 and 5 are at the present time operated, and as were operated at that time. In order to provide facilities for postal service for the postoffices and patrons, a star route was established to operate between Sandersville and Augusta, to supersede the service that was performed by trains Nos. 21 and 22, and the star route operates on approximately the same schedule, particularly leaving Tennille. You asked me about the cost of that service. The contract rate of pay for that star route is $1,986 per annum.

I think the cost of the railway mail service, transportation, on that branch was $7,500 for the space, but all charges, including mail, messenger service, and clerical force, the aggregate total of all charges that were thus discontinued was in the neighborhood of $13,000 per annum.

176 "Q. (Mr. HITT.) Does the star route service furnish a traveling postoffice?

"A. What do you mean?

"Q. Space for handling the mail to make distribution en route?

"A. Not in the same manner as provided by distributing on the train. They handle what is known as a way pouch, in addition to the through pouches. The way pouch is opened by every postmaster, as the postoffice is reached, and any mail addressed to that office is taken out by him, and any mail that he has for the remaining offices located on the line and for dispatch at the terminal is included.

"Q. You do not have any separations in transit?

"A. No, sir.

"Q. (By Mr. O'BRIEN.) Mr. Fulghum, right along the line of counsel's questioning, would it be feasible to operate the railway mail service for the transportation of mail to serve the territory, which the Georgia & Florida serves for the carriage of this mail without having any R. P. O. clerks?

"A. Do you mean to substitute closed pouch service for the distributing service? (Tr. 9237.)

"Q. Yes, sir, that is what I mean.

"A. That would be possible.

"Q. Would you think from your experience and observation of the situation down there, that it would be advisable to discontinue the R. P. O. clerks on this road?

"Mr. HITT. We object to that, Mr. Examiner. I do not see that that has anything to do with it.

"Mr. O'BRIEN. You raised the question.

"Mr. HITT. May I ask if the mail now goes through Tennille?

"Mr. O'BRIEN. Just a minute. I want my question answered.

"Examiner MULLEN. I think you might answer that.

177 "The WITNESS. I will ask you to repeat the question, Mr. Reporter."

(Question read.)

"The WITNESS. Under what circumstances? You mean with conditions as they are now?

"Q. (Mr. O'BRIEN.) Yes.

"A. Well, it would be practicable.

"Q. Would it be economical?

"A. It would be economical.

"Examiner MULLEN. You still have not got the question answered. Would it be advisable from a postal point of view?

"The WITNESS. There is a matter of policy involved, perhaps, which I do not feel privileged to express an opinion on.

"Mr. O'BRIEN. Just give us your judgment.

"Examiner MULLEN. You are not bound by it, of course.

(After a pause.) The witness appears reluctant to advise the Postoffice Department on that point.

"Q. (Mr. O'BRIEN.) What would you recommend, Mr. Fulghum?

"A. Now, Mr. O'Brien. I recommend when this inspection report was made, that we continue the service.

"Q. Continue the service?

"A. Yes, sir.

"Mr. O'BRIEN. All right."

The WITNESS. I spoke of the mail going through from Augusta to Sandersville. More mail goes to Sandersville than formerly went to Tennille, for this reason: Formerly No. 21 left Augusta at an hour that they received no connection. In other words, at about ten o'clock in the morning they left Augusta and arrived at Ten-

178 nille at 5:40 in the afternoon. The train left Tennille at 5:40 in the morning and arrived at Augusta around 11:30. Now our star route service practically duplicates the morning schedule. It leaves Sandersville at 6 o'clock, after receiving the mail from Tennille, over the Sandersville and Tennille, C. P. line, and arrives at Augusta about 11:30.

"Q. (By Mr. HITT.) The figures which you gave as to the cost of the star route service, of course, did not include the mileage between Sandersville and Tennille?

"A. We already had the service on the Sandersville Railroad anyway. That is the reason we did not take the star route through to Tennille, because we had a facility already to get the mail to Sandersville."

The WITNESS. Now, on the return trip, instead of having a star route leaving Augusta immediately after arrival, it is held until

arrival of Georgia Railroad Train No. 2 from Atlanta, and after receiving the mail from that train proceeds to Sandersville. The trip from Sandersville in the morning carries all the night accumulation of Macon, Atlanta, Savannah postoffices, and the trip out of Augusta in each instance brings the mail that arrives in Atlanta in the morning on connections that arrived in time to connect with Augusta and Atlanta Train No. 2, which leaves Atlanta at 8:25 a. m. (Tes. 9234–9240.)

"Q. (By Mr. O'Brien.) Do you know, Mr. Fulghum, whether this Georgia & Florida Railroad has the same schedule for these mixed trains as it had for the passenger trains?

"A. I have no figures for comparison, but I am of the opinion that the schedules have been somewhat lengthened. Is not that true?

"Mr. Todd. The same time card schedules, but they run late when they handle any number of box cars, a little late, anywhere from one to two hours a day.

179 "Q. (Mr. O'Brien.) Does the Postoffice Department have to give any additional service by star routes on the Midville-Statesboro Branch?" (Tr. 9240–9241.)

The Witness. As to whether the Postoffice Department have to give any additional service by star routes on the Midville-Statesboro Branch: There are two offices located on that line, that we supply, or at least afford a service by the star route that became necessary on account of the inability of the railroad company to provide a suitable schedule. I took the matter up at the time with the people, asking for the service, and handled it with Mr. White, Superintendent of Transportation, in an effort to obtain a later schedule time of departure from Statesboro on train No. 44, and while he did cooperate, as far as operating conditions would permit, and set the schedule back 30 minutes, it did not satisfy the patrons of Graymont and Summit, and it was necessary to extend a star route that was furnished from Wadley to Swainsboro, down to Graymont and Summit, in order to give them a late afternoon dispatch for mail. I have a list of the star routes here, which have been established primarily to supplement service to officers supplied by the Georgia & Florida Railroad.

Mr. Hitt: Mr. Examiner, we object to that. I do not know that that has anything to do with this case. What we are dealing with here is a question of compensation to the Georgia & Florida for space authorized by the Department.

Examiner Mullen. I do not see how that is involved here.

Mr. O'Brien. We think we have a right to show to the extent that this compensation is being given what we are paying the Georgia & Florida, and which we contend is more than sufficient and subserves the purposes of the Postoffice Department.

180 Examiner Mullen. You mean a certain service which if the railroad could render, you would request it to render as a supplementary service?

Mr. O'BRIEN. If they were able to render it, and while they are not it means an additional outlay which we claim they should be able to render if they are a railroad.

Examiner MULLEN. How much of it is there?

The WITNESS. These supplementary services were not necessary on the former train service operation, but they were rendered necessary by a withdrawal of a train service.

Examiner MULLEN. Are you speaking now for conditions brought about by the abandonment of that branch?

The WITNESS. The branch and the frequency of schedules on others.

Examiner MULLEN. It seems to me we are getting a little bit far afield. This service, as I understand it, has been discontinued.

The WITNESS. Yes, sir.

Examiner MULLEN. And there is no railroad there now to render the service.

The WITNESS. Between Augusta and Tennille, you mean?

Examiner MULLEN. Yes, sir.

"Q. (By Mr. O'BRIEN.) How about Midville and Statesboro?

"A. Those offices which I spoke of, Summit and Garfield.

"Q. There is still a railroad there, is there not?

"A. Yes, there is; but the company formerly operated trains through from Vidalia to Millen, over a road that was a part of that system, and these offices were located on that line of railroad and supplied with R. P. O. service.

181 Mr. HITT. Mr. Examiner, that does not seem to be relevant here. The Postoffice Department has a right to require the railroads, under penalty, to perform service on those trains when they run them.

Examiner MULLEN. Yes, sir.

Mr. HITT. And if the trains are taken off and the lines discontinued, what has it got to do with the question at all?

Mr. MULLEN. I do not see that at all.

Mr. O'BRIEN. I understand that the Midville-Statesboro route is still being operated. Is that right?

The WITNESS. Yes, sir.

Mr. O'BRIEN. And it is necessary to supplement the service given on the Statesboro route by star route service, is that right?

Examiner MULLEN. Why did you not ask the railroad to do it?

Mr. O'BRIEN. We did ask them and they could not do it. That is my understanding of his testimony.

Mr. HITT. You can ask the railroad to furnish service on any train that they operate, can you not?

The WITNESS. Yes, sir.

Mr. HITT. And if the schedules and so forth do not fit, you resort to star route services?

The WITNESS. My customary practice is that in all cases where service is desired by postoffices located on railroad lines, to first ask the railroad if the train is in position to supply the service.

Mr. HITT. If they are not and if they do not furnish it, you do not pay for it, is that correct?

The WITNESS. Yes, sir.

Mr. O'BRIEN. Can you force them to furnish it, Mr. Fulghum, if they do not want to?

The WITNESS. I do not know.

182 Mr. HITT. The law makes a penalty of $1,000 a day.

Mr. O'BRIEN. I am talking about the practice.

Examiner MULLEN. In this particular instance, did you request the service?

The WITNESS. I did. I requested the Superintendent of Transportation, or I acquainted him with the facts in the case, and the complaints that we were receiving, and pointed out what steps we might have to take to satisfy them, unless we could have a suitable schedule. In this case it did not involve additional train service but merely the changing of a schedule on an existing train, and they found that operating conditions would not permit them to do so to the extent that was desired, and so we found a way to satisfy those people by giving them a star route.

L. O. TODD was called as a witness by the Post Office Department and testified: I am the auditor for the receivers of the Georgia & Florida, was the auditor there in 1932 and testified here at the hearing at that time. I prepared some of the exhibits which were introduced in the 1932 hearing. Exhibit No. 733 was prepared under my direction and supervision. Referring to the second page of Exhibit No. 733, Account R. M. P. No. 51, page 1 of five pages, shown in the note at the top right hand corner, it shows railway operating expenses, and the first column account No. 201, running down to 232. The total expenses charged here for superintendence is $27,267.87, and in the third column it shows a charge to freight service of $20,723.87, and to passenger service $6,544.29. Those figures were separated in accordance with the rules prescribed by the Interstate Commerce Commission governing the separation of

183 operating expenses between freight service and passenger service on large steam railways, issue of 1920. That is the rule I followed; that is the authority that guided me in making this separation. As to the actual basis of the figures: There were no direct expenses related to either freight or passenger in that item, and the entire amount was apportioned according to the proportions of accounts Nos. 201 to 273, inclusive, excluding common expenses in accounts Nos. 227, 228, 247, and 248.

"Q. (Mr. O'BRIEN.) The language of your answer is the text of the rule in the Interstate Commerce Commission booklet? Is that right?

"A. Yes, sir.

"Q. What were the accounts which you used as a basis for your proportion?

"A. Accounts Nos. 202 to 273, as mentioned.

"Q. Account 202—Roadway Maintenance, Yard—is that one of them?

"A. Yes, sir. (Tr. 9248–9349.)

"Q. And you apportioned to superintendence what you upon some basis find to be chargeable to the superintendence of yard operation under account No. 202?

"A. There is a formula in the rules for dividing those expenses which was followed. This is a joint passenger and freight yard.

"Q. (Mr. O'Brien.) And the superintendence of the yard, as to passenger and as to freight, is proportioned or apportioned to each one on same basis of the man's time, how?

"A. This is maintenance superintendence here.

"Q. Yes, sir.

"A. For maintaining the entire line, Account No. 201.

"Q. Yes, sir.

"A. Account No. 202 is not superintendence but it is maintenance of the yard. (Tr. 9249.)

184 "Q. You say you used that as a basis for apportionment of 201. I want to find out, then, getting into 202, how you make your apportionment, and what you use as a basis for separating 201, I want to get down to the basic practice here.

"A. Accounts 202 to 226, the second item in the booklet of rules states: 'The maintenance of tracks in yard in which a separate switching service is maintained and which are used in common by freight and passenger services should be divided according to the switching locomotive miles in the common yards.' This was a common yard and the expenses in that yard were divided on that basis.

"Q. And you followed that rule of the Commission in making your separation?

"A. Yes, sir.

"Q. Now on what basis are yard switching locomotive miles compared [compiled] by your road?

"A. Interstate Commerce Commission Rules for compiling train switching; classification of train miles and locomotive miles, and car miles, for steam roads, prescribed by the Interstate Commerce Commission, issue of 1914, effective July 1, 1914, provides——

"Q. Without reading the rule, are you able to state the basis on which the Georgia & Florida did the separation?

"A. Oh, the separation? I thought you meant the calculation.

"Q. The compilation of the yard switching locomotive miles.

"A. They have been compiled on the basis of the number of hours of service to each class of service.

"Q. How was that obtained?

"A. By the actual number of hours in each service.

185 "Q. Who keeps track of that?

"A. The general yardmaster.

"Q. You do not mean that the general yardmaster keeps track of every switching engine?

"A. Well, he knows what the switching engine is doing, the service it performs in passenger service, and what service it performs in freight service—we have so little passenger service in that yard.

"Q. The hours of running, the hours of operation up and down the spurs or tracks, or whatever it is operating, who keeps track of that before it gets to the yardmaster?

"A. The yardmaster keeps track of it himself.

"Q. How does he know if an engine goes down the line, how much time is devoted to passenger and freight switching?

"A. He directs the movement of the trains [engines].

"Q. Does he then estimate the time it takes to move each car on the train?

"A. He knows the time required and the time the engine is in that service.

"Q. He knows about what it should take. Is that right?

"A. That is right, and he knows what it does take. We have not any [a] half-dozen locomotives there switching. There is just one or two at most at any one time, and he knows what that locomotive is doing.

"Q. He knows just what he has assigned it to do, so that on that basis he puts down the amount of time it is doing it? Is that right?

"A. He puts down the amount of time that is required to perform the service.

186 "Q. That is not an actual determination of the hours and minutes that it is in that service. That is just an estimate by the yardmaster as to the time he thinks it did or should devote to that service. Is not that right?

"A. I do not know what practice he follows, but it should be the actual time.

"Q. Well, what——

"A. I am not prepared to say. I do not stand there and watch him put down the figures.

"Q. So that you accept these figures then, without any investigation as to whether or not they are actual or mere guesses? Is that right?

"A. Yes, we take them as being correct.

"Q. Now, when he reports the time of a switch engine on switching freight or passenger, what do you do with that time in order to translate it into the basis for charges?

"A. The time is converted into yard switching locomotive miles.

"Q. How do you do that?

"A. On the basis of 50 miles plus [per] 8-hour day.

"Q. 50 miles per 8-hour day?

"A. Yes, sir.

"Q. What is the authority for that rate of speed?

"A. I was in error; it is 6 miles per hour.

"Q. 6 miles per hour. Do you know whether or not this compilation here was made on basis of 6 miles per hour or 50 miles per 8-hour day?

"A. 6 miles per hour.

"Q. And that is taken as the average speed of the switch engine? Is that right?

"A. I do not know. It is taken from the rules of the Interstate Commerce Commission. I do not know whether it is average.

187 "Q. So that that is a purely arbitrary indeterminate so far as arriving at these figures is concerned? A switch engine might be running faster or slower in your yard, but you put it down on the basis of 6 miles per hour and have it on that basis. Is that right?

"A. We follow these rules; yes, sir.

"Mr. MUNSON. What rules are you speaking of?

"The WITNESS. The rules for the classification of train miles, locomotive miles and car miles, steam roads, prescribed by the Commission, Rule 7 on page 12."

The WITNESS. I am not in a position to say whether these switching engines are working all the time. The charges are based on the hours they are actually operated, which are actually paid for. If the crew is on duty 10 hours from the time he reports until the time he is relieved, the miles are computed as 60 miles for that day, whether he is on the spot part of the time or working the entire time. If they are one duty 10 hours that day, and they devote 6 hours to switching freight and 3 hours to switching passengers, the remainder, according to our method of calculation, would be charged to freight; only the actual time used in switching passenger equipment is charged to passenger.

"Q. Are you not supposed to make a division of the charge and charge to one account or the other the unoccupied or the idle time of the equipment and crew on some basis prescribed?

"A. This rule that I mentioned before in the rules for the separation provides that they will be divided on basis of switching locomotive miles.

"Q. Yes, sir.

"A. If the passenger service requires three hours today, that would be 18 miles for passenger service, and that is what we charge to passenger service. It seems to me that that would be in accordance with the rule.

188 "Q. (By Examiner MULLEN.) You mean 18 miles out of the total? How do you arrive at your total miles?

"A. The total miles are based on the full time on duty.

"Q. Whether there are any miles operated or not?

"A. Yes, sir.

"Q. Let us get that clear. That is to say, if the locomotives actually operated in the yard five hours in a ten-hour day, that would actually be, under your computation, 30 miles operation, would it not?

"A. Yes, sir.

"Q. The locomotive would be idle for five hours, and you still compute miles of operation as 30, including also for the idle time?

"A. Yes, sir.

"Q. So that you would get instead of 30 miles of actual operation of the switching locomotive, a different figure, and you would show it in your report as 60 miles of operation?

"A. Yes, sir.

"Q. And if passenger cars were switched for a period, I think you said three hours or 18 miles, then the proportion would be 18/60ths and not 18/30ths?

"A. That is right. Yes, sir. As a matter of fact, our switch engines are busy practically all of the time, according to my observation. There is so little switching service and so much required, they are on the jump nearly all the time, to satisfy the patrons." (Tr., pp. 9255–9256.)

189 The WITNESS. Taking our account No. 202, the division in there between passenger and freight, that is roadway maintenance of the yard; that is on the basis of the locomotive switching miles. (Tes. 9251–9256.) With respect to the other roadway maintenance in No. 202, the basis is on expenses of all other tracks apportioned according to these proportions of accounts 394 to 396 inclusive.

Account 394 which deals with fuel for train locomotives is on sheet 4.

"Q. And the total operating expenses under that item is $117,301.61, of which $89,176.83 is freight service, chargeable to freight service, and $28,125.28 is apportioned to passenger service; how do you work that out? How do you work out the division of the fuel proposition?

"A. Fuel is assigned as provided by the rules, directly, as far as possible. In other words, the fuel used by freight trains is chargeable to freight service and the fuel used by a passenger train is chargeable to passenger service.

"Q. How many purely freight trains do you have?

"A. Well, I do not know exactly, but I imagine about 70 percent of the train miles are purely freight train. That is just an estimate.

"Q. Well, is the division here made upon that basis of 70 percent?

"A. No; it is based on the actual use as far as freight and passenger trains are concerned, and then the [mixed] miles, train miles, is divided between freight and passenger upon the basis of the car miles in the mixed train.

"Q. (By Examiner MULLEN.) That is, the fuel expense for the mixed train is divided that way?

"A. Yes, sir." (Tr., 9258–9259.)

190 The WITNESS. As to whether the fuel expense for the mixed train is divided that way: The yard switch engine is a mixed service and it is divided on the basis as I have explained before. That is, divided on the switch engine miles. Now the train switching is divided on the same basis that the mixed train is divided.

191 You see, there are two different classes of switching: One is train switching and the other is yard switching. The fuel is accounted for by the engineer, designating the train number and the service, and that fuel is charged by the storekeeper to mixed-train service on the basis of those tickets. The ticket does not show the consist of the train. Asked how to know how much to charge to passenger cars and how much to freight: It is charged on the basis of the miles of the cars in the train. The mileage is calculated by the car accountant, the car miles, and the storekeeper charges the fuel to account No. 394, mixed, and then, in the accounting department, we divide that between passenger and freight on the basis of the car miles in mixed trains as a total for the year. Those are the total car miles in mixed trains for the year. The car accountant supplies and compiles the figures of cars in mixed trains, and supplies them to the accounting department.

For instance, in 1931, 79.80 percent of the car miles in mixed trains were freight and 20.19—there is a fraction there to dispose of the balance—20.19 were passenger cars in mixed trains. This expense is divided on those percentages.

It is not assumed that all of the locomotives have a uniform rate of fuel consumption; it is divided on the actual consumption of the engine in the service on the particular run. They use different classes of engines on these branch lines from the main-line heavy-tonnage train. Asked whether a train made up of passenger cars, a passenger consist train as it used to be run, will consume more fuel per mile than a train made up of freight cars or less: It depends, of course, on the number of freight cars in the train and whether they all are loaded or empty.

Q. Well, we will assume that there are the same number of cars in each train.

A. Of course, it would be a pure guess with me; I would say that a passenger train uses less fuel.

192 Passenger equipment is lighter than loaded freight cars and does not take so much steam to pull. When we divide our mixed-train fuel expense, we do not take that into account, there is no provision for any calculation on the tonnage in the Interstate Commerce Commission regulations. (Tes. 9256–9261.)

Those mixed trains handle empties sometimes, as well as loads. These mixed trains, I might add, handle very few in number of cars on the branch line, freight cars. There is no mixed service on what we term the main line; that is, in this test period.

Q. Now you show that the division of account 202, line 2, that is, your other-than-yard expenses; is it?

A. Roadway maintenance.

Q. (By Mr. O'Brien.) Other-than-yard roadway maintenance is divided on the basis of account 374——

A. 394 to 396 inclusive. This is only account 394, as it happens, because there is no other figures in the other two accounts.

Our tickets are made for the buggies loaded with so much coal, the engineer gives a receipt on the ticket for so much coal received. And the car mileage, that is taken from the record of the conductor of the train, of the car miles handled in each of those trains.

As to how he reports the mileage when a mixed train switches a freight car en route: The train report the conductor sends in to the car accountant shows where he handles each car from and to. If he switches a car, he shows that switching on there, too. He doesn't show exactly how much switching he has done. That switching is properly chargeable to mixed, under the Interstate Commerce Commission regulations. If switching is done en-route by a mixed train, that switching of a freight car en route would not be charged, or assigned, to freight, but would be charged to mixed operation. The same way switching a passenger car at either the beginning
193 or end of the run, after the run: that is charged to mixed.

As to the basis upon which the roadway depreciation is apportioned: We haven't any in there. The basis of the apportionment of the item 208, second line, bridges, trestles, and culverts, other-than-yard, is divided on the same basis as I previously mentioned, for account 202. That is on the basis of item 394; all of those accounts from 202 to 226, except the yard proportion, is divided on the same basis as account 202. That includes 212, ties. The yard ties in 212 are divided on the basis of the switching and other ties for the road generally are divided on the basis of account 394. The same thing applies to yard rails; that is, on the basis of switching statistics, and the other rail on the basis of 394, fuel consumption. Item 216, other track material in the yard: that is on the switching-statistics basis, and other track material than that in 216 is on the fuel basis. Item 220, tracklaying and surfacing in the yard, is apportioned on the basis of the yard switching, locomotive miles, and the account 220 there is on the basis of account 394. None of these I have mentioned are direct allocations; these are all apportioned costs. Account 225, right of way fence, that is on the basis of 394. Crossings and signs: The yard proportion is on the basis of the switching division. The crossings and signs, other than yard, are on the basis of account 394. I have item 227, stations and office buildings: The total of the account is $3,223.22, of which $775.97 is apportioned to passenger and $2,457.25 to freight. This is apportioned according to the same proportions of accounts 202 to 273.

Q. Well, 273 is assessment for public improvements.

A. That has nothing charged in the account. I was just reading from the rules of the Interstate Commerce Commission.

As to the proportion of 202 to an account which has no charge: It has already been charged on the basis of account 394—I mean, it has already been apportioned. We do not divide that account on the apportionment determined in account 202; accounts 202 to
194 273; in other words, we apportion all of these accounts which we have been over. And the balance of the accounts down to

273, except account 201, and except account 227 and 228, and except account 229 and 230, and some other accounts in there previously mentioned, and then we add all of those totals up and make percentages out of them, and divide this account 201 on those percentages. That is all an apportionment and not an assignment. (Tes. 9261–9266.)

Q. I see. Is that true of account 228, station and office buildings, depreciation? Well, under that you have none.

A. It would be if we had any; yes, sir.

Roadway buildings, account 229, that is the same way; also water and fuel stations.

Account 235, shops and engine houses, is apportioned according to the proportions of accounts 308, 311, 314, 317, 320, 323, and 326. Asking how we apportion on the basis of seven or eight accounts: We make percentages out of those figures. First we apportion those into the accounts and then we add the apportionments as between freight and passenger, and on the basis of the apportionments we make the apportionment of this account that we are talking about. Those accounts for the apportionment of account 235 are 308, 311, 314, 317, 320, 323, and 326, excluding common expenses in account 326. Then we also include in that accounts 388 and 400. Taking account 308, steam locomotive, repairs, $101,773.41, of which freight was charged with $72,344.73 and passenger $29,428.68; this account is apportioned according to the mileage of the individual locomotive or class. That is, I might state that in cases in which locomotives are not run exclusively in one service or the other, they are divided according to the mileage of the individual locomotive or class. In other words, if the locomotive is run in passenger service, and if it is run in freight service it is charged to freight, on the mile-
195 age basis. If it is run in the mixed trains, it is divided on the basis of car miles in mixed trains on the basis of the car miles of the passenger cars and the basis of the freight-car miles. We have here an apportionment in the case of item 308, but the one that that is dependent upon, 235, an apportionment based upon apportionment. Now, 314, repairs to freight-train cars, that is directly assigned. So is 316 and 317. 326, an item of $3,230.31, of which $2,455.04 is chargeable to freight and $775.27 is chargeable to passenger, that is apportioned according to the proportions of accounts 202 to 273. We add those accounts together, get the freight and passenger apportionment in those accounts, and take the total of the relationship, which will determine this apportionment. Before we get 235, we add up all of the accounts that we have then in there already assigned, and work out 235, and then, when we get over to the equipment, we have all of the accounts worked out in here from account 202 to 273, and we work that on those percents. As to what I mean by excluding common expenses in item 326: Apportioned common expenses according to the proportion of account 202, omitting common expenses in accounts 227 and 228, we omit the common expenses in account 227 in arriving at that appor-

tionment, Item 388 is a common engine house and it is divided on the basis of freight and passenger yard-switching locomotive miles.

Q. Is the item No. 400, engine-house expense, train, $21,706.73, divided $14,543.51 charged to freight and $7,163.22 charged to passenger—how was that apportionment made?

A. That seems to be divided on the basis of transportation service, locomotive miles.

Q. That is account 400 you are talking about?

A. Yes, sir.

Q. Now, is that divided in accordance with the rules of the Interstate Commerce Commission? Is that what you mean by your answer, account 400?

196 "A. The rule provides that where various costs of engines differ considerably in expense of handling. Well, we have none that vary to any extent in the handling of them in the engine house."

Asking whether we use the same kind of engines for switching as we do for road work: Well, they are not the same kind, but it does not vary to any marked degree as far as handling in the engine house is concerned. All they do is wash the boilers, and things of that character. This division of account 400 was made on the basis of transportation locomotives miles, including switching locomotive miles.

Item 247 relating to telegraph and telephone lines is apportioned according to accounts 202 to 273, excluding common expenses in account 227, and 247. Here again its an apportionment of the totals of other apportionments.

Item 249 is apportioned on transportation service, locomotive miles, including switching-locomotive miles. (Tes. 9266–9271.)

As to Item 265, miscellaneous structures; That is assigned according to the fact in individual instances; the percentages of that.

Item 267, paving, is apportioned according to the proportions of accounts 202 to 226.

Item 269, roadway machines, that also is on the same basis, and so is Item 271.

197 Item No. 274, small tools and supplies, they are apportioned according to the proportion of accounts 202 to 273. Item 275, insurance, is in the same category. Item 276 is the same. Stationery and printing is the same, that is, railroad forms.

"Examiner MULLEN. You, however, make direct assignments first wherever possible, do you not?

"A. Yes, sir.

"Q. That 276, is that?

"A. On all accounts, but there is no possible division on [most of] these maintenance-of-way accounts.

"Examiner MULLEN. No.

"Q. (By Mr. O'Brien.) Now, account No. 278, maintaining joint tracks and other facilities: on what basis is that divided?

"A. They are treated in individual cases.

"Q. They are treated in individual cases?

"A. Yes, sir.

"Q. Well, what individual cases; are there no cases where you have to make apportionment of the cost?

"A. Yes, sir. They are divided on the — the common expenses are divided on the proportions of these accounts 202 to 273."

198 The WITNESS. As to the basis of the division of account 301, under section 2 of this compilation, page 2, expense of maintenance of equipment: That is divided on the basis of the aggregate of all primary accounts in this subdivision, omitting the common expenses in accounts 301, 329 to 337, inclusive.

"Q. Now, 302, shop machinery?

"A. Common expenses apportioned according to the proportions of accounts 308, 311, 314, 317, 320, 323, and 326 combined."

I have already gone over those.

305, power plant and machinery, depreciation: We haven't any in that.

308, repairs to steam locomotives, $101,773.41 total; $72,344.73 charged to freight, $29,428.68 charged to passenger, that is apportioned on locomotive miles in the different classes of equipment. We have already gone over that.

Item 309, depreciation of steam locomotives; that is based on the proportions of accounts 308.

We have already dealt with 314. Account 327 is apportioned on the same basis as account 326.

Account 330 is on the same basis as 301. That is also true of 331.

Accounts 332, injuries to persons, and 333, insurance, are the same; also 334, stationery and printing.

"Q. 351, under the item, traffic expense: how is that apportioned; traffic superintendence?

"A. That is, the common expenses are apportioned on the basis of the directly assignable expenses in this general account."

Items from 351 to 359, inclusive, are apportioned on the same basis as 351; on the basis of the unassigned expenses in this general account. The direct expenses are assigned and then we make percentages out of those and apportion the unassigned.

As to Item 352, outside agencies: We have no outside agen-

199 cies for passenger service; that is strictly freight solicitors. It is all charged to freight.

Item 353, advertising, covers principally advertising train schedules, passenger-train schedules; it is assigned directly, as far as possible, to the service for which it was used.

By Examiner MULLEN. As to what is included on our traffic expense coming under the heading of superintendence: The traffic manager and the clerks in his office. It includes his office expenses, rent, telephone, and any number of those items. He has general supervision over passenger service. He exercises actual supervision, entirely. We have no general passenger agent, but at this time, in 1931,

we had a passenger agent and he just had general supervision; he did not spend any great amount of time in the passenger work.

"Q. (By Mr. O'BRIEN.) What is covered by this item 356, industrial and immigration bureaus? What kind of service to the railroad is that?

"A. Well, it is the development of agricultural interests and industrial interests, along that line."

I could not say right now, why part of it is charged to passenger, without looking in the record. I do not know whether there is any special item they were working with at that time, but there is just a small portion charged to passenger. (Tr. 9271–9277.)

"Q. Now, under classification of operating revenues and operating expenses, steam roads, prescribed by the Interstate Commerce Commission, item 356 is: 'Industrial and Immigration Bureaus'—I want to know if this is your understanding of what the account of the Georgia & Florida covers.

"This account shall include the cost to the carrier of industrial and immigration bureaus, including the pay of industrial and immigration agents, and exhibit agents, their clerks and attendants and their office, stationery and printing, traveling, and other expenses."

200 And the items of expenses here are: Advertising, agricultural trains, dairy trains, donations to expositions, donations to fairs, donations to stock shows, exhibits, experimental farms, good-roads trains, premiums to fairs, premiums to stock shows. Do you know what kind of items in there this account covers and which of them are charged to passenger?

"A. Under that, I do not know that we had any analogous items to that; I do not know there what the item would cover, without referring to the record.

"Q. Now, section 4——

"A. Well, pardon me. Before we get away from that item: It is deducted out of the final tabulation, is it not, that account 353, and 356, and 354, all of that total; isn't it deducted?

"Q. You say it is deducted?

"A. Yes, sir.

"Q. Well, section 4, item 371, that is expenses of transportation, rail lines, $18,293.23, divided $14,268.72 to freight, and $4,024.51 to passenger.

"A. That is the common expenses are divided according to the freight and passenger proportion of the aggregate of all primary accounts in general account 4, omitting the common expenses in accounts 373, 376, 390–391, 406, 407–417, and 420."

Item 372, dispatching trains, is on the basis of transportation in train miles. That is, the entire expense is common, and it is divided on the basis of transportation train miles. That is already charged to freight on the basis of freight-train miles and that is charged to passenger on the basis of passenger-train miles.

The mixed is on the basis of car miles of the mixed train, or mixed train miles so divided on the basis of the car miles in the mixed train and those two results are added to the passenger and freight-train miles.

Item 373, station employees, $109,253.61, of which $91,666.29 is freight, and $16,807.58 charged to passenger, is divided according to the percentages used to divide common expenses of account 371. They are based on all of the aggregate of all the primary accounts in this general account. We get those percentages first, and divide—By "primary accounts" I mean all of these from 371 to 413, those are the primary accounts in this general account 4. Asking whether this item 373 is based upon the proportion which the totals of those accounts bear to each other: 373 is divided on the percentages used to allocate the expenses of account 371. 371 is divided—not including this account 373, first. We leave out 373 and make apportionment of 371. When we get the apportionment of 371, we apply that ratio to 373. No. 374 is a purely freight account. The basis of the division of 376, station supplies and expenses, is the percentages used to divide common expenses of account 371. We leave out account 376. 377 to 389 are all in. 377, 378 divided, down to 379. They are all divided, on the basis of freight and passenger yard switching locomotive miles. That is down to 389.

201

No. 392 is train enginemen. They are assigned directly, as far as possible, of course. The mixed-train service is on the basis of car miles in mixed-train, then, if there are any common expenses, they are divided on the basis of the direct assignment. Train enginemen, item No. 392, does not include switch enginemen; that is account 380.

I explained 394 when I was going over the other part of this. 397 is on a proration of percentages used for account 394. 398 and 399 are based on the percent used in account 392. I explained 400.

401 is trainmen; it is the same as account 392. By trainmen I mean conductors. Rear-end crew, all except enginemen, engineer and fireman. Where they are on freight trains, they are charged directly to freight. And on passenger trains charged directly to passenger service. When they are on mixed trains, they are apportioned on car miles in mixed trains. Where a mixed train stops to switch some of its freight train en route, that time is given exclusively to freight trains, and when it switches its passenger cars at the terminal, before the trip, and when it switches its passenger cars at the end of the trip, it is on passenger service, but it all goes into mixed. (Tes. 9277–9282.) In either case, if it had six freight cars, and switched them en route, it would be all charged to mixed; and if it had one passenger car or two passenger cars and switched them at the end of the line, that would be charged to mixed.

202

Item 402, train supplies and expenses, includes certain lubricants, and lighting supplies, and flags, and fuses, brooms, dusters, any number of small items like that.

Item 404, signal interlocker operation, is based on transportation locomotive miles, including switching locomotive miles.

The same thing does not apply to 406; that is divided on basis of percentages used to divide common expenses of account 371. The same way with 407.

410 is the same as 406 and 407. 411 and 414 are the same. They are not all the same down to 420. 415 is assigned directly, as far as practicable, and then the same as those expenses used in 371. 418 is assigned directly to freight.

419 direct to passenger. That would be all.

In this exhibit, account 419 was shown as freight. It should have been passenger. There was just $30.45, though.

420 is assigned directly, if it can be traced to either service, or on percentages used in account 371.

Turning to page 5 of exhibit 733, the seventh group generally, beginning with item 451, salaries and expenses, $17,024.77 total, and asking the basis for the apportionment in that case: All of these accounts in this general account are divided directly as far as practicable, and the remainder is apportioned according to the proportions of accounts 201 to 446. We add all of those accounts together and take the total for the basis of our proportion.

203 That applies to items 451, 52, 53, 54, 55, 56, 57, 58, 59, 60, and 461.

CROSS-EXAMINATION

"Q. (By Mr. MUNSON.) This apportionment was done under my direction in the year 1931, and I have just been led through this exhibit 761 [733], account by account.

"A. Yes."

(Statement by Mr. O'BRIEN.) You have a copy of the Government exhibit before you. This is a copy of the railroad exhibit No. 733, the one I was dealing with.

(Statement by Mr. MUNSON.) They are the same figures, as I understand it, in this exhibit 761, except that you have combined the apportionment of the passenger service under passenger, express, and mail.

(Statement by Mr. O'BRIEN.) They have broken down the figures to show the charges to passenger, express, and mail, on 761, whereas, in 733 it is purely a division between freight and passenger service, of the general operating expenses of the railroad.

The WITNESS. I might state that this exhibit in the original, the original exhibit, 733, was apportioned in accordance with Post Office Department pamphlet, which did not call for the figures as shown in 761. As I went through these various accounts and into the method of apportioning as between freight and passenger service, I could not say whether that apportionment correctly reflects the proper charges to each or not, except as far as it is directly assigned according to the service performed. The apportionments are purely

arbitrary and might be in favor of the freight or might be in favor of the passenger. I do not know and have never heard of any better method of apportioning.

(Witness excused.)

304 Further Testimony of Charles H. Stephenson

The last general cost study in connection with mail pay was made in 1927. Decision was rendered July 10, 1928, but the hearings were in 1927. The test period was in the fall of 1925. The rates of mail pay generally for railroads 100 miles in length and over were based on the decision rendered in 1929, the decision of July 10, 1928, was based on the cost study of 1925. (Tes. 9282–9287.) Those rates of mail pay are still being paid. Since the case was heard in 1927 there has been quite a change in train service, especially on the smaller lines. The train service has materially decreased, causing the substitution of other mail service. In my duties in the Post Office Department I do not come in contact with the matter of changing of train schedules, and the necessity of rearranging our mail service to conform to them; that comes in the Railway Mail Service. I am in the Division of Railway Adjustment. That has to do with the authorizations, and my particular work is in connection with the statistical work connected with authorizations and substitutions. By authorization I mean authorizing a mail service on the railroads; the superintendent of the division has to do with the authorization of the service, and I have to do with the statistical end of it, after it is authorized. I would have knowledge of changes in authorizations.

(By Mr. MULLEN.) Asked whether the proper word there was requisitions rather than authorizations: I presume it could be called that, but we call it authorization. We really get space on the trains as they move. We never requisition space and cause them to put on additional trains.

"Q. Well, then, have there been any curtailments of trains carrying*ing* passengers or mail?

"A. There has; material."

On main lines we would know of it; there has been a material change on first-class railroads generally throughout the country.

205 We authorized a 15-foot R. P. O. and the railroad actually runs 30-foot R. P. O.'s. The extra 15 feet is treated as unused space. It is treated the same as if the partition was where it would be if a 15-foot apartment was operated. It is thrown into the baggage end, into the common unused space. A portion of that is assigned to each service, included in the mail service in proportion to the use made of mixed and combination cars by the two services; using the authorized space for the mails.

Mr. Munson asked me concerning the general cost study made before 1928, for all the railroads whose rates were fixed, July 10,

1928. Since that time there has been a special study made on this road, but the rate remained the same; 1931.

(Witness excused.)

Further testimony of L. O. Todd

DIRECT EXAMINATION

"Q. (By Mr. MUNSON.) Mr. Todd, have you examined the Department's exhibit No. 763, entitled "Statement showing the comparison of the expense per car mile and car foot mile for passenger service as a whole, compared with the revenue received for the transportation of the mail per car mile and car foot mile?" (Tr. 9292.)

206 I have examined the Department's exhibit No. 763, entitled "Statement showing the comparison of the expense per car mile and car foot mile for passenger service as a whole, compared with the revenue received for the transportation of the mail per car mile and car foot mile." The heading isn't quite clear to me, but I understand that it is intended to make it appear hypothetically that if the mail was relieved of any share of the unused space, the space occupied by the Department would be paying .3724 cents per car foot mile more than the average cost per car foot mile for performing passenger service. As to what result it would produce if exactly that same hypothesis was applied to space occupied by passenger service: In the first place, it seems to me that any cost hypothesis, either for mail or for passenger services, is ridiculous and contrary to everything the Commission has heretofore said, so far as I know; but, nevertheless, to demonstrate the absurdity of any such hypothesis——

I have here an exhibit on exactly the same formula, except that I have substituted car foot miles of passenger miles occupied

207 for car foot miles of occupied mail space, in the same manner that the Department in its exhibits has relieved mail service of all unoccupied space in this exhibit, I have relieved the passenger service of all unoccupied space. This exhibit was prepared by me.

(Exhibit No. 765, Witness Todd, received in evidence.)

On precisely the same method of calculation I find the occupied passenger space produces an excess revenue per car foot mile of 2.230 cents per car foot mile. The Department's excess per car foot mile for occupied mail space is only .3724, or slightly over one third of a cent per car foot mile, whereas my exhibit shows the excess per car foot mile for occupied passenger space is 2.233, which is over two cents per car foot mile, which shows that by applying the same formula to each the mail pays only about one sixth as much per occupied car foot mile as does the occupied passenger. (Tes. 9288–9294.)

As to how we got our used car foot mile for the transportation of passengers on line 11: Revenue per used car foot mile. Item 8 gives

the car foot passenger miles actually occupied, and is based upon the average length of the car and the average seating capacity, and the number of passengers carried. The average person occupies one foot of car space. Based on that assumption, we got these other figures. On our line a car holds 66 passengers per 60-foot car in the majority of the service. That is a strictly passenger car.

I am familiar with exhibit 725 filed by Witness I. R. White in this proceeding. It is a map of the Georgia & Florida Railroad, on which is depicted the mail routes and services then being rendered for the Government by the Georgia & Florida at the time the case was previously heard. Mr. White testified in detail on this at page 8991 of the record. There has been a change in that mail service since exhibit 725 was filed. The branch line of railroad from
208 McAdoo to Tennille has since been abandoned by authority of the Interstate Commerce Commission, and, consequently, the mail service formerly operated between Augusta and Tennille and between Tennille and Keysville on trains 21 and 22 is not now being operated. There has not been any other changes. On page 8987 of the previous hearing, Mr. White testified that the Georgia & Florida's gross operating revenues per mile in 1930 averaged only $3,475.49, as contrasted with an average of $21,787.92 per mile for class I roads as a whole. We have similar figures for the subsequent years. In 1931 we averaged only $2,928.56 per mile; in 1932, $1,766.20; in 1933, $2,098.23; and in 1934, $2,268.95. On page 8987 Mr. White also testified that the total length of the Georgia & Florida was 463 miles. Since that time the mileage has decreased to 408 miles, due to the abandonment of the branch line extending from McAdoo to Tennille. The Georgia & Florida is still a member of the American Short Line Railroad Association, and our receiver and general manager is also chairman of the South Short Line Railroad Conference, an organization of strictly short-line railroads in the southeastern states.

On pages 8985 and 8986 Mr. White testified that except with respect to its unusual length of mileage, the Georgia & Florida Railroad is of the same character as the so-called independently operated short lines less than 100 miles in length.

(By Examiner MULLEN.) By "the same general character" I mean it serves a rural section, it is a rural service principally, substandard wages and maintenance, and operation, just like a short line.

As to my knowledge of short-line railroads in the southeast or other parts of the country; I have not worked for any railroad except the Georgia & Florida but, from my observation, they are operated, maintained, and the salary and wage items are below standard just like the Georgia & Florida Railroad. I have been
209 with the Georgia & Florida Railroad for 17½ years. The Augusta Southern, which was the Tennille branch of our railroad, was operated separately as a short line under the common control and management of the Georgia & Florida, and the operation of

that property, which was 83 miles in length, was about on the same basis as the Georgia & Florida operations have been since. We have short-line connections, the South Georgia. I would say it is approximately 80 miles long. The short lines which connect with our railroad are: The Sandersville Railroad. It connected with our Tennille branch and is three miles long. The Savannah & Statesboro at Statesboro; that was 39 miles in length, and that connected with the Statesboro branch. The Georgia Northern connects with our line at Moultrie and it is, I believe, over 100 miles in length. As to my knowledge of these connecting short lines in respect to their maintenance and methods of operation and accounting: They class as class II carriers, because their revenue is below $1,000,000 per annum, but their accounting and maintenance and everything that I have anything to do with is on a parity with the Georgia & Florida. Some of these lines earn more per mile than we do. In some respects they are operated and maintained better than the Georgia & Florida; because their earnings are more per mile they have more per mile to spend, but, as a general thing, they are of about the same character as the Georgia & Florida.

"Q. Well, then, based on your knowledge and experience of short lines in the same territory, what would be the answer to that question?

"The WITNESS. Well, our mileage is now some 55 miles less than it was in 1931, but we are still, in all essential particulars, a local community railroad with earnings per mile per annum no more than most short lines of less than 100 miles in length." (Tes. 9295–9301.)

We handle considerable overhead traffic in connection with
210 trunk lines. Some of our short-line connections handle a greater percentage of overhead traffic than we do. There is the Georgia Northern Railroad, for instance, which handles a large amount of tonnage, of Chevrolet automobiles. I think that road is about 130 miles long. It would not come under the classification of separately operated short lines. Our railroad is like other separately operated short lines less than 100 miles in length, in respect to the wages paid. I do not know, as a general thing, what the other lines under 100 miles pay in wages, but we have compared them from time to time in our wage disputes, and in some cases they are more than ours and in others they are less. We have probably all the problems, difficulties, and financial stresses which usually confront shorter weak line railroads. In this connection I have here an exhibit, No. 766, consisting of four pages, which is to show how the Commission itself has formally recognized, in the Southern Class Rate Investigation, that while the Georgia & Florida is a line of fair size, it is entitled to be treated on the same basis as small short-line community railroads.

(Exhibit No. 766, Witness Todd, received in evidence.)

Asked whether the operations of the Georgia & Florida have changed materially since this case was last heard: The Tennille

branch has been abandoned, as I have already testified, and our traffic volume has been even less than it was in 1931, but has lately shown some betterment. We have reduced some service and have also reduced our expenses. We have not conducted any further cost studies on railway mail pay since the test which was made in 1931. Nor has it been suggested by the Postoffice Department, for, of course, the results of that test are already in the record. I am of the opinion, however, that when all things are considered, another test at this time would show we would need a relatively greater increase in our mail pay than the 1931 test indicated. As to whether I have made any study or any observation from which I could gather an opinion as to what a test would show: We have reduced the
211 passenger-car miles of strictly passenger cars in our principal trains, Nos. 4 and 5, between Valdosta and Augusta, which would tend to increase the proportion of the unused space chargeable to the mail.

We have taken off full passenger cars on each of those trains. In 1931 we operated that train with a mixed car, mail, baggage, and express, and two solid passenger cars. And now we have, since our revenues and travel fell off to where we could do it, we cut out one of those solid passenger cars. Asking whether that would tend also to reduce the expense chargeable to passenger-train service: The expense would be reduced slightly. The expenses would be reduced possibly 10 percent, but the proportion chargeable to the mail would be 33⅓ increased on the unused space. If you reduced the number of cars, it increases the mail proportion. That is, if you reduce the number of solid passenger cars, the mail proportion would go up in that proportion. The only unused space is the space in mixed cars. We haven't reduced any of those, but the passenger service stood 80 percent of the unused space in the previous test, and the mail only 12 percent, I believe.

"Q. Yes; but perhaps you are talking here about a little different thing; your measure of unused space chargeable to passengers is dependent upon the use made of the mixed cars by passengers. It is true that full cars entered into the ratio, but did not enter into any part of the unused space proportion; isn't that so?

"A. Yes; that is true."

We are not getting the same total mail pay per annum as we did during the 1931 test. We are being paid at the same unit rates, but the total compensation received is materially less, because we operate a less number of mail-space units. As I have already testified, the Tennille branch has since been abandoned. At the present time 88.6 percent of our mail revenue is paid for handling traveling post offices known as apartment cars. I might also add that 1.05 percent is paid for service rendered by motor cars operated exclusively
212 for the transportation of the mails. Only 10.35 percent of our mail revenue is now paid for a three-foot closed-pouch service, other than the service rendered by the motor car which we have just

mentioned. We do not operate any storage mail space. I compiled the financial statistics for the cost study in the 1931 test period. They were compiled under my direction and supervision. I do not know of any better method by which any more exact cost study could be made. It is the same method which has been used in all other cases I have heard about, and which I have always understood was worked out as the most practicable cost study between representatives of the Post Office Department, the Interstate Commerce Commission, and the railroads. Asking whether the Post Office Department has suggested any other or better method for calculating and making the separation of revenues and expenses in a cost study in these mail-pay cases: I have never heard of any other or different basis being suggested for such a cost study. As a matter of fact, the separation of operating expenses between freight and passenger service which was used in the 1931 cost study is the method specifically prescribed by the Interstate Commerce Commission itself in its order of December 1, 1919.

"Q. (By Examiner MULLEN.) You said 'prescribed by the Commission.' Are you sure of that?

"A. I have reference to the separation of the expenses between freight and passenger."

We are required to follow these separations in our reports to the Interstate Commerce Commission. This is the same separation which we make on all accounts on which we are required to furnish data in our annual reports to the Interstate Commerce Commission. The Post Office Department proposed some adjustments in the cost-study figures for the Georgia & Florida, all of which worked in their favor.

(Statement by Mr. O'BRIEN.) I object to that conclusion. If they worked in favor of the Post Office Department, that was the time the Commission's attention should have been called to the
213 matter of the manner in which they did so work. I do not think the witness should be permitted to make this statement to prejudice the record in this hearing. The point simply was that because there were changes in the postal service during the year 1931, there was a difference between the conditions in the cost period and the average for the year, because certain services had been eliminated earlier in the year, so that when the Post Office Department and the railroad came to figure it out unadjusted the result would have meant a very much larger increase, based upon such interpretation of the cost study of the Georgia & Florida. I mean figured on the test period, and by adjusting for the changes during the year it reduced that ratio from around 120 to 89.80, something like that. There was a question at the time as to whether that did not go too far the other way, that is, whether it didn't more than adjust, but no question was raised, and that is the point that all adjusting suggestions were adopted by the railroad.

"Examiner MULLEN. Well, I think, however, the objection of counsel for the Post Office Department is fairly well taken then, objecting

to the use of the words 'all in favor of the Post Office Department', because, as I understand it, it was done for the purpose of reflecting the full year's period of operation. That was based on the actual car miles run for a full year."

(Statement by Mr. MUNSON.) It was discovered that if you took 28/365 it gave you a fewer number of car miles than were actually operated during the year, because certain train service was curtailed along in April of that year, so that your total car-foot miles for the year was greater than the test period, carried out on an annual basis, and all of the changes tended to reduce the deficit contended for by the Georgia & Florida. I think that is what he meant by that language. The test period showed that it was not truly representative of the average for the year, because you have to use the total figures for the year as developed in the annual report. In
214 using those figures and in charging them to the 28-day test period for the purpose of computation, the Post Office Department suggested that there be that adjustment which was agreed to by the carrier, which reduced the amount which would otherwise have been claimed by the railroad.

"Examiner MULLEN. If you had then the test period?

"Mr. MUNSON. Unadjusted."

(Statement by Examiner MULLEN.) Well, with that statement, I think the answer may stand. (Tes. 9301–9312.)

I have an exhibit which would tend to substantiate the fact to which I have testified that the space and financial figures in the 1931 test period were undisputed. I have here as my Exhibit 2 a statement of one page entitled "The Cost Study", which exhibits that situation as I understand it.

"Mr. HITT. Mr. Examiner, we offer this as Exhibit No. 767.

"Mr. O'BRIEN. We object to it, Mr. Examiner."

(Statement by Mr. O'BRIEN.) I am afraid I could not accept that as an exhibit without very extended analysis of what you conceive to be the statements of the various citations here, which might not at all be in accordance with either my view or the Commission's view of the facts. I do not see how we can accept that as an exhibit.

(Statement by Examiner MULLEN.) The objection will be sustained.

(By Mr. HITT.) I have referred to the dispute over the allocation of unused space in combination cars. I have here as my exhibit No. 3 of one page a statement entitled "Comparison of the Department's Plans 1, 2, and 3"——

(By Mr. O'BRIEN.) We prepared that exhibit in conjunction with Mr. Hitt. I did not prepare it.

(Statement by Mr. HITT.) For that matter, I prepared the exhibit myself.)

(Exhibit No. 767, Witness Todd, received in evidence.)

215 (By Mr. HITT.) I have here as my Exhibit No. 767 of one page, a statement entitled "A Comparison of the Department's Plans 1, 2, and 3", which I think will make clear our understanding

of the comparison between the Department's Plans 1, 2, and 3. Plan No. 2 is the one which I understand the Commission has adopted in all previous cases.

(Statement by Mr. O'BRIEN.) My objection at this time is to offering this exhibit through this witness, Mr. Todd, the Auditor for the Georgia & Florida Railroad. It is not his exhibit, and his statements concerning it might very well be taken to substantiate or prove or increase its standing as an exhibit. I think Mr. Hitt, if he is going to offer these exhibits, need not offer them by any witness, but should offer them as his own products. I do not think we should broaden the authority of the witness.

(Statement by Mr. HITT.) Mr. Examiner, we had certain other exhibits that we had intended to offer, but your ruling on the exhibits which we had numbered as "2" would, I think, apply equally well to these other exhibits. Therefore, we will not offer them.

With reference to the Commission's classification of train-miles, locomotive miles, and car-miles for steam railroads, I have a copy of those printed regulations. It is the issue of 1914, effective July 1, 1914, and still in effect.

(Exhibit No. 768, Witness Todd, received in evidence.)

This exhibit shows how those regulations were developed. On page 7 the statement is made that "In the preparation of the revision of the accounting rules obtained in this and other classifications for steam roads, which are concurrently issued, the Commission has had the cooperation of a subcommittee of the standing Committee on Corporate, Fiscal, and General Accounts of the Association of American Railway Accounting Officers."

"In all essential features the classification, as here issued, meets with the approval of the special committee of the American Railway Association, by which it has recently been reviewed." (Tes. 9314–9319.)

216 Asking how the Interstate Commerce Commission's regulations for the separation of freight and passenger expenses developed: While my information is not complete, I do have a copy of a report and order by the Interstate Commerce Commission dated June 15, 1915, prescribing regulations for this separation, in which it is stated that they had made a previous report on the subject as of June 13, 1914, after a public hearing, and there was a further discussion of the matter before the Commission on May 21, 1915, in which representatives of railroads and of various State Railroad Commissions participated; and Exhibit 760, which Mr. Stephenson introduced, was a further refinement of those regulations which became effective January 1, 1920, and are still in effect. Committees representing American Railway Accounting Officers worked with the Commission on these regulations. I am an accounting officer and a member of the Association of Railway Accounting Officers. It is my understanding that it was not until after the Commission gath-

ered a great deal of information and consulted freely with experts versed in railroad accounting that these regulations were adopted, and they have stood ever since.

"Q. (By Mr. Hitt.) From your knowledge of the procedure of the railway accounting associations, and so on, can you state whether you know yourself more than just hearsay that that was the case.

"A. Of course, in this particular case it is just hearsay, but all changes in the classifications are done with consulting the committees of the Railway Accounting Officers Association."

That was done in the formulation of these past regulations, including this particular set. These are the same regulations which governed the cost studies in the general Railway Mail Pay Case, which was decided by the Interstate Commerce Commission on July 10, 1928, 144 I. C. C. 675, and in all other mail pay cases, as I understand it. I participated in the 1928 case. We made the same statistics as we did in the present case.

217 CROSS-EXAMINATION

I have here a copy of my Exhibit No. 765.

"Q. Line 13 purports to show excess of revenue for passenger service per used car foot mile over average cost for all passenger service operations of 2.330 cents. Is that the fact?

"A. That is the fact as the result of this method of calculation, which is the method used by the Postoffice Department in Exhibit 763."

The railroad in 1931 was making that much profit on its passenger operation per car foot mile occupied. It did not make that profit on per car foot mile actually operated. We take here as the basis of our line 8 car foot miles actually occupied. Asking whether the proper basis of that line would have been the car foot miles actually operated: To get the proper per car foot mile actually operated it would have been, but to get the profit as the Postoffice Department did in this exhibit per car foot miles used, this is the proper method. That is our position in preparing this exhibit 765, as a reply exhibit to Postoffice Exhibit 763.

"Q. In your analysis of the Postoffice Exhibit 763 did you determine or did you advise yourself as to the basis of authorizations for that exhibit? In other words, do you know whether or not they took the space occupied in the car by the mail or whether there was taken as the base of Postoffice Exhibit 763 the authorizations, whether occupied or unoccupied?

"A. They used as occupied space the authorized space."

Asked whether we followed that procedure in preparing our Exhibit 765: There is no specific authorized space for passengers. However, we run a passenger car whether there is one passenger in there or sixty-six. We simply took the number of passengers we

carried and multiplied it by what we might call the average space car foot mile on the basis of a full coach.

"Q. Instead of taking the total passenger miles operated. So you did not take, then, what you might call the authorized
218 space or that which is comparable to the authorized space, in other words, the actually moved or carried passenger service?

"The WITNESS. In reply to Mr. O'Brien's last question, as I said before, there is no authorized space for passengers."

The railroad has to operate an entire car whether one passenger is carried or sixty-six, in the same manner as the combination car has to be carried as a unit, whether occupied or not. (Tes. 9319–9324.)

(Statement by Mr. O'BRIEN.) "Do not let us get away from the comparison of these exhibits on the basis of the operation of passenger cars and the basis of the operation of authorized space units. Those are the two things that I am seeking to compare, so as to show, if the Examiner please, that there is no fair basis of comparison established in the railroad exhibit No. 765. I want to know why you did not take the full passenger operated space as the Postoffice Department took the full authorized mail space as the basis of their exhibit."

The WITNESS. Asked why we took this method: We omitted unused space, as did the Postoffice Department. I took the space actually used. In the Postoffice Exhibit they did not take the space actually used, they took the authorized space.

The authorized space being, of course, the space that is allocated for their use.

You have to operate the full passenger coach whether it is occupied by one or sixty-six passengers. You cannot move one passenger without moving the entire coach. You cannot move the mail coach, without moving the entire coach, either.

If we had taken the passenger train miles or the passenger car miles, we would have obtained a very different result from this 2.330 that shows in the computation in the 13th line of our exhibit.

I have not figured the loss, whether it would be substantial or
219 not. I think it is in the original figures, though. In line with this exhibit, our passenger fares at the present time are not the same as they were in 1931. The basic rate in 1931 was 3.6 cents per mile. At present it is 1.5 cents per mile. The passenger revenue, however, has increased. We have not figured the 1934 figures on this same basis to see whether there is a profit or not. I was in error in stating that there was an increase in passenger revenue over 1931. There have been some increases over 1932 and 1933, but it is still less than 1931. Asking whether or not the passenger revenue or the passenger service showed a profit for 1934: I am unable to state the exact figures. I would assume that there has been a loss as a whole. As to what the purely passenger carrying business at the reduced

rate shows as to profit or loss: There has been such a change in the method of operation that I am unable to say.

(Statement by Mr. O'BRIEN.) I am talking about the purely passenger operation, the operation of coaches for the convenience of the passengers, whether they are completely filled or partially filled.

The WITNESS. I have the gross passenger revenue. 1931 shows $36,121; 1932, $18,840; 1933, $19,407; 1934, $30,112.

On the basis of the 1931 business the "passenger proper" showed a loss. I do not know exactly when we reduced the rate; sometime about April 1933, I believe.

Referring to Postoffice Exhibit 764, first line of the tabulation under "Postoffice Plan 2", "Prorated 60-foot car mile revenue, 5.66", for passenger: I understand what that means. The operating costs of the passenger service under Postoffice Department Plan No. 2 prorated 60-foot car mile would be greater than 5.66.

"Q. I show you the Postoffice Department's Exhibit No. 745, revised, which was filed here on July 1, 1932. You see this shows various costs here, car foot mile expense under the different plans.

220 "A. Yes, sir.

"Q. I show you the figure in the first column under Plan 2, passenger, total railway operating expenses, 35.65 cents. Is that a correct figure?

"A. That is the figure, yes."

I identify Railway Exhibit 768 as "Classification of Train Miles and of Locomotive Miles, and of Car Miles for Steam Roads." I am familiar with the contents of that pamphlet. The car miles are compiled by the car accountant's office and he uses it. I do not personally use it, not in compiling the car, train, and locomotive miles. He is supposed to follow the methods set forth in this pamphlet. I do not make any actual check to see that he follows them. (Tes. 9324–9334.)

(Witness excused.)

(Hearing closed.)

[Filed endorsement omitted.]

221 *Agreement as to exhibits introduced in Docket No. 9200, Georgia & Florida Railway mail-pay*

It is agreed that the following disposition be made of the exhibits introduced in this proceeding:

Exhibit No. 725, a statement showing mail pay authorizations for the year 1931 for the Georgia & Florida Railroad, is to be reproduced in full, facing page 128.

Exhibit No. 726, a decision of the Interstate Commerce Commission of June 22, 1928, in Valuation Docket No. 330, Georgia & Florida Railway, 143 I. C. C. 303, need not be reproduced, but reference may be made to this decision in the printed reports of the Interstate Commerce Commission the same as if incorporated herein.

Exhibit No. 727, a decision of the Interstate Commerce Commission dated December 23, 1926, in Finance Docket No. 5812, Reorganization and Extension of Georgia & Florida Railway, 117 I. C. C. 473, need not be printed, but reference may be made to this decision in the Interstate Commerce Commission reports the same as if incorporated herein.

Exhibit No. 728, a decision of the Interstate Commerce Commission in Finance Docket No. 4020, Acquisition of Line by Statesboro Northern Railway, 90 I. C. C. 413, need not be printed, but reference may be made to this decision in the Interstate Commerce Commission reports the same as if incorporated herein.

Exhibit No. 729, a decision of the Interstate Commerce Commission in Finance Docket No. 9153, Georgia & Florida Receivers' Reconstruction Loan, decided May 5, 1932, and reported in 184 I. C. C. 332, need not be printed, but reference may be made to this decision in the Interstate Commerce Commission reports the same as if incorporated herein.

Anderson
Greenwood
Elberton
Athens
Covington
Madison
Edgefield
Trenton
Saluda
Newberry
Columbia
Aiken
Augusta
Warrenton
Mitchell
Gibson
Keysville
McAdoo
St. Clair
Denmark
Bornwell
Allendale
Tennille
Macon
Midville
Millen
Stevens Crossing
Garfield
Swainsboro
Summit
Graymont
Dublin
Statesboro
Vidalia
Collins
Alamo
Savannah
Cordele
SOUTH CAROLINA
GEORGIA
OCEAN
G. & F. R.R.
S. A. L.
Sou. Ry.
Ga. R.R.
C. & W. C.
A. C. L.
S. & A.
Cen. of Ga.

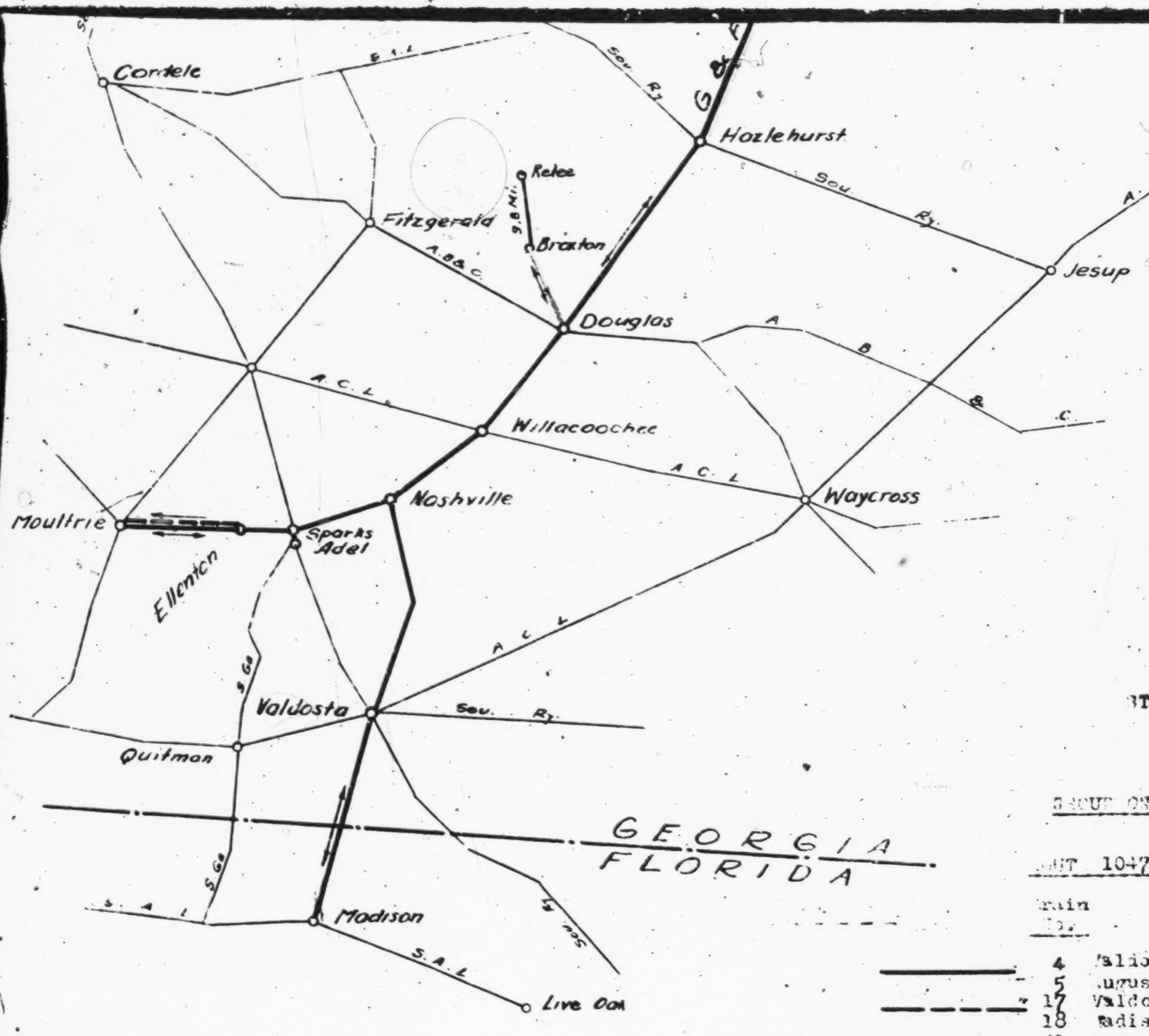

EXHIBIT No. 725

STATEMENT SHOWING U. S. MAIL PAY AUTHORIZATIONS, YEAR 1931
GEORGIA & FLORIDA RAILROAD

GROUP ONE: Train runs on which service was the same throughout entire twelve months of 1931.

UNIT 104731.

Train No.	From	To.	Distance	Class of Service	One Day Trips Performed	Miles of Service Performed
4	Valdosta	Augusta	222.90	15 Ft.Apt.	365	81,358.50
5	Augusta	Valdosta	222.90	15 Ft.Apt.	365	81,358.50
17	Valdosta	Madison	27.39	3 Ft.C.P.	313	8,573.07
18	Madison	Valdosta	27.39	3 Ft.C.P.	313	8,573.07
21	Augusta	Tennille	83.30	15 Ft.Apt.	313	26,072.90
22	Tennille	Augusta	83.30	15 Ft.Apt.	313	26,072.90
22	Tennille	Haysville	56.90	3 Ft.C.P.	52	2,958.80
43	Midville (#)	Statesboro	55.25	3 Ft.C.P.	313	17,512.35
44	Statesboro (#)	Midville	42.63	3 Ft.C.P.	313	13,343.19

NOTE: ( ) Via Graymont.
(#) Omitting Graymont.

UNIT 104878.

30	Douglas	Broxton	8.50	3 Ft.C.P.	156	1,326.00
31	Broxton	Douglas	8.50	3 Ft.C.P.	156	1,326.00
32	Douglas	Broxton	8.50	3 Ft.C.P.	157	1,334.50
33	Broxton	Douglas	8.50	3 Ft.C.P.	157	1,334.50
						271,144.28

GROUP TWO: Train runs which did not remain the same throughout year 1931:

UNIT 104731.

[illegible]	[illegible] (#)	Hazlehurst	129.46	3 Ft.C.P.	77	[illegible]

223 *Exhibit No. 730, one page, follows*

224 GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS

Statement of the complete operation of trains in passenger service, including passenger service cars in mixed trains and motor cars during the twenty-eight day period commencing 12.01 a. m. September 28, 1931, and ending 12 midnight, October 25, 1931

[Transcript of summaries of daily reports of conductors. From Form R.M.P. 406]

Line no.	Train no.	Complete train operation: Points between which the service was performed — From—	To—	Distance of train run (miles)	No. of one-way trips	Train miles	Total car miles	Total car-foot miles	Cars carrying only one class of traffic: Passenger — Car miles	Passenger — Car-foot miles	Baggage — Car miles	Baggage — Car-foot miles
	1	2	3	4	5	6	7	8	9	10	11	12
1	4	Valdosta, Ga.	Augusta, Ga.	222	28	6,216	19,046	1,092,248	12,670	729,668		
2	5	Augusta, Ga.	Valdosta, Ga.	222	28	6,216	18,676	1,073,994	12,460	717,684		
3	17	Valdosta, Ga.	Madison, Fla.	28	28	784	784	35,280				
4	18	Madison, Fla.	Valdosta, Ga.	28	28	784	784	35,280				
5	21	Augusta, Ga.	Tennille, Ga.	84	28	2,352	4,956	261,660	2,604	133,476		
6	22	Tennille, Ga.	Augusta, Ga.	84	28	2,352	4,878	257,474	2,526	129,290		
7	25	Nashville, Ga.	Moultrie, Ga.	38	24	912	912	50,160				
8	26	Moultrie, Ga.	Nashville, Ga.	38	28	1,064	1,064	58,520				
9	27	Nashville, Ga.	Moultrie, Ga.	38	4	152	152	8,360				
10	30	Douglas, Ga.	Broxton, Ga.	9	12	108	108	4,860				
11	31	Broxton, Ga.	Douglas, Ga.	9	12	108	108	4,860				
12	32	Douglas, Ga.	Relee, Ga.	18	12	216	216	9,720				
13	33	Relee, Ga.	Douglas, Ga.	18	12	216	216	9,720				
14	43	Midville, Ga.	Statesboro, Ga.	55	24	1,320	1,320	66,000				
15	44	Statesboro, Ga.	Midville, Ga.	42	24	1,008	1,008	50,400				
16	Ex.	Augusta, Ga.	Keysville, Ga.	26	1	26	52	2,886	26	1,508		
17	Ex.	Keysville, Ga.	Tennille, Ga.	58	1	58	174	9,918	116	6,844		
18	Ex.	Tennille, Ga.	Augusta, Ga.	84	1	84	252	14,364	168	9,912		
19												
20												
21												
22												
		Grand total				23,976	54,706	3,045,704	30,570	1,728,382		

Line no.	Cars carrying only one class of traffic—Contd.: Express — Car miles	Express — Car-foot miles	Full R.P.O. cars — Car miles	Full R.P.O. cars — Car-foot miles	Storage mail cars — Car miles	Storage mail cars — Car-foot miles	Combination cars — Car miles	Combination cars — Car-foot miles	Mixed traffic baggage cars — Car miles	Mixed traffic baggage cars — Car-foot miles	Authorized mail space operated in full R.P.O. and storage mail cars — Car-foot miles	Space operated in full R.P.O. and storage mail cars over authorized mail space — Car-foot miles	Period of train operation — From—	To—	Remarks	Line no.
	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	
1							6,376	362,580								1
2							6,216	356,310								2
3							784	35,280								3
4							784	35,280								4
5							2,352	128,184								5
6							2,352	128,184								6
7							912	50,160								7
8							1,064	58,520								8
9							152	8,360								9
10							108	4,860								10
11							108	4,860								11
12							216	9,720								12
13							216	9,720								13
14							1,320	66,000								14
15							1,008	50,400								15
16							26	1,378								16
17							58	3,074								17
18							84	4,452								18
19																19
20																20
21																21
22																22
							24,136	1,317,322								

Intertsate Commerce Commission. Docket No. 9200. Date 6-29-32.

Carrier Exhibit No. 730. Witness, White.

I. R. WHITE,
Superintendent Transportation.

Exhibit No. 731, one page, follows

GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS

Statement of the operation of space in combination cars during the twenty-eight day period commencing 12.01 a. m., September 28, 1931, and ending 12 midnight, October 25, 1931

[Transcript of summaries of daily reports of baggagemen]

Line no.	Train no.	From—	To—	Car-foot miles—All classes of service—In combination cars														Remarks	Line no.
				Passenger	Baggage	Express	Authorized space for mail									Unoccupied space	Total car-foot miles combination cars		
							Miscellaneous	15-foot apartment	30-foot storage	15-foot storage	7-foot storage	3-foot storage	15-foot closed pounch	7-foot closed pouch	3-foot closed pouch	Total authorized mail space			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	
1	4	Valdosta, Ga.	Augusta, Ga.		5,328	35,520	6,216	93,240								93,240	222,276	362,380		1
2	5	Augusta, Ga.	Valdosta, Ga.		3,552	35,298	6,216	93,240								93,240	218,004	356,310		2
3	17	Valdosta, Ga.	Madison, Fla.	25,872	56	1,904	784								2,016	2,016	4,648	35,280		3
4	18	Madison, Fla.	Valdosta, Ga.	25,872	0	1,736	784								2,016	2,016	4,872	35,280		4
5	21	Augusta, Ga.	Tennille, Ga.	49,392	1,092	11,928	2,352	30,240								30,240	33,180	128,184		5
6	22	Tennille, Ga.	Augusta, Ga.	49,392	588	16,884	2,352	30,240							696	30,936	28,032	128,184		6
7	25	Nashville, Ga.	Moultrie, Ga.	34,656	114	3,990	912										10,488	50,160	No mail authorized.	7
8	26	Moultrie, Ga.	Nashville, Ga.	40,432	304	5,852	1,064										10,868	58,520	" " "	8
9	27	Nashville, Ga.	Moultrie, Ga.	5,776	0	152	152										2,280	8,360	" " "	9
10	30	Douglas, Ga.	Broxton, Ga.	3,564	0	540	108								324	324	324	4,860	Tri-weekly.	10
11	31	Broxton, Ga.	Douglas, Ga.	3,564	0	450	108								324	324	414	4,860	" "	11
12	32	Douglas, Ga.	Relee, Ga.	7,128	0	1,404	216								324	324	648	9,720	Tri-weekly. (Mail space is authorized between Douglas and Broxton only, and unoccupied space between Broxton and Relee should be apportioned accordingly.)	12
13	33	Relee, Ga.	Douglas, Ga.	7,128	0	828	216								324	324	1,224	9,720		13
14	43	Midville, Ga.	Statesboro, Ga.	43,560	0	1,595	1,320								3,960	3,960	15,565	66,000		14
15	44	Statesboro, Ga.	Midville, Ga.	33,264	0	1,512	1,008								3,024	3,024	11,592	50,400		15
16	Ex.	Augusta, Ga.	Keysville, Ga.	572	0	0	28										780	1,378		16
17	Ex.	Keysville, Ga.	Tennille, Ga.	1,276	0	0	58										1,740	3,074		17
18	Ex.	Tennille, Ga.	Augusta, Ga.	1,848	0	0	84										2,520	4,452		18
19																				19
20																				20
21																				21
22																				22
		Grand Total		333,296	11,034	119,593	23,976	246,960							13,008	259,968	569,455	1,317,322		

Interstate Commerce Commission. Docket No. 9200. Date 6-29-32. Carrier Exhibit No. 731. Witness, White.

I. R. WHITE,
Superintendent Transportation.

227 *Exhibit No. 732, one page, follows*

228 GEORGIA & FLORIDA RAILROAD, H. W. PURVIS AND W. V. GRIFFIN, RECEIVERS

Recapitulation of the operations of space in passenger train service and total car-foot miles segregated between the various classes of service

[Summary of R. M. P. Forms 401, 402, and 403]

Line no.	Train no.	From—	To—	Distance (miles)	Train miles	Car miles	Grand total car-foot miles	Total car-foot miles all classes of service											Equated 60-foot car miles	Pullman-operated cars included in columns 6 and 8		Remarks	Line no.
								Passenger	Baggage	Express	Miscellaneous	Total mail authorizations, combination cars	Total mail authorizations mixed - traffic baggage cars	Total all mail authorizations	Space operated in full cars over authorized mail space	Unoccupied space in combination cars	Unoccupied space in mixed-traffic baggage cars	Total unoccupied space in combination and mixed-traffic baggage cars		Car-miles	Car-foot miles		
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
1	4	Valdosta, Ga...	Augusta, Ga...	222	6,216	19,046	1,092,248	729,668	5,328	35,520	6,216	93,240	.....	93,240	.....	222,276	.....	222,276	.....	.....	.....	.....	1
2	5	Augusta, Ga...	Valdosta, Ga...	222	6,216	18,676	1,073,994	717,684	3,552	35,298	6,216	93,240	.....	93,240	.....	218,004	.....	218,004	.....	.....	.....	.....	2
3	17	Valdosta, Ga...	Madison, Fla...	28	784	784	35,280	25,872	56	1,904	784	2,016	.....	2,016	.....	4,648	.....	4,648	.....	.....	.....	.....	3
4	18	Madison, Fla...	Valdosta, Ga...	28	784	784	35,280	25,872	0	1,736	784	2,016	.....	2,016	.....	4,872	.....	4,872	.....	.....	.....	.....	4
5	21	Augusta, Ga...	Tennille, Ga...	84	2,352	4,956	261,660	182,868	1,092	11,928	2,352	30,240	.....	30,240	.....	33,180	.....	33,180	.....	.....	.....	.....	5
6	22	Tennille, Ga...	Augusta, Ga...	84	2,352	4,878	257,474	178,682	588	16,884	2,352	30,936	.....	30,936	.....	28,032	.....	28,032	.....	.....	.....	.....	6
7	25	Nashville, Ga...	Moultrie, Ga...	38	912	912	50,160	34,656	114	3,990	912	.....	.....	.....	.....	10,488	.....	10,488	.....	.....	.....	.....	7
8	26	Moultrie, Ga...	Nashville, Ga...	38	1,064	1,064	58,520	40,432	304	5,852	1,064	.....	.....	.....	.....	10,868	.....	10,868	.....	.....	.....	.....	8
9	27	Nashville, Ga...	Moultrie, Ga...	38	152	152	8,360	5,776	0	152	152	.....	.....	.....	.....	2,280	.....	2,280	.....	.....	.....	.....	9
10	30	Douglas, Ga...	Broxton, Ga...	9	108	108	4,860	3,564	0	540	108	324	.....	324	.....	324	.....	324	.....	.....	.....	.....	10
11	31	Broxton, Ga...	Douglas, Ga...	9	108	108	4,860	3,564	0	450	108	324	.....	324	.....	414	.....	414	.....	.....	.....	.....	11
12	32	Douglas, Ga...	Relee, Ga...	18	216	216	9,720	7,128	0	1,404	216	324	.....	324	.....	648	.....	648	.....	.....	.....	.....	12
13	33	Relee, Ga...	Douglas, Ga...	18	216	216	9,720	7,128	0	828	216	324	.....	324	.....	1,224	.....	1,224	.....	.....	.....	.....	13
14	43	Midville, Ga...	Statesboro, Ga...	55	1,320	1,320	66,000	43,560	0	1,595	1,320	3,960	.....	3,960	.....	15,565	.....	15,565	.....	.....	.....	.....	14
15	44	Statesboro, Ga...	Midville, Ga...	42	1,008	1,008	50,400	33,264	0	1,512	1,008	3,024	.....	3,024	.....	11,592	.....	11,592	.....	.....	.....	.....	15
16	Ex.	Augusta, Ga...	Keysville, Ga...	26	26	52	2,886	2,080	0	0	26	0	.....	0	.....	780	.....	780	.....	.....	.....	.....	16

18	Ex.	Tennille, Ga...	Augusta, Ga...	84	84	252	14,364	11,760	0	0	84	0	.....	0	.....	2,520	.....	2,520	.....	.....	.....	.....	18
19																							19
20																							20
21																							21
22																							22
		Grand total..			23,976	54,706	3,045,704	2,061,678	11,034	119,593	23,976	250,968	.....	259,968	.....	569,455	.....	569,455	.....	.....	.....	.....	

Interstate Commerce Commission. Docket No. 9200. Date 6-29-32. Carrier Exhibit No. 732. Witness, White.

I. R. WHITE,
Superintendent Transportation.

229 *Exhibit No. 733, eleven pages, follows*

230 GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN & H. W. PURVIS, RECEIVERS

Railway operating revenues for the year ended December 31, 1931

Acct. no.	Class of railway operating revenues	Amount of revenue for the year	Not related for purpose of this inquiry	Assignable to freight service	Assignable to passenger service	Passenger and miscellaneous	Express	Mail
		1	2	3	4	5	6	7
101	Freight	1,251,369.74		1,251,369.74				
102	Passenger	36,121.13			36,121.13	36,121.13		
103	Excess Baggage	163.14			163.14	163.14		
104	Sleeping Car							
105	Parlor and Chair Car							
106	Mail	36,707.37	979.36		35,728.01 36,707.37			35,728.01 36,707.37
106-A	Side and Terminal Service	779.94	779.94					
107	Express	7,593.01			7,593.01		7,593.01	
108	Other Passenger-Train	38.64			38.64	38.64		
109	Milk							
110	Switching	4,734.72		4,734.72				
111	Special Service Train	1,269.55	1,269.55					
112	Other Freight Train							
113	Water Transfers—Freight							
114	Water Transfers—Passenger							
115	Water Transfers—Vehicles and Live Stock							
116	Water Transfers—Other							
	Total Rail-line Transportation Revenue	1,338,777.24	3,028.85 2,049.49	1,256,104.46	79,643.93 80,623.29	36,322.91	7,593.01	35,728.01 36,707.37
121	Freight							
122	Passenger							
123	Excess Baggage							
124	Other Passenger Service							
125	Mail							
126	Express							
127	Special Service							
128	Other							
	Total Water-line Transportation Revenue							
131	Dining and Buffet							
132	Hotel and Restaurant	12,591.01	12,591.01					
133	Station, Train, and Boat Privileges							
134	Parcel Room							
135	Storage—Freight	2,275.69		2,275.69				
136	Storage—Baggage	.54	.54					
137	Demurrage	3,248.00		3,248.00				
138	Telegraph and Telephone							
139	Grain Elevator							
140	Stockyard							
141	Power							
142	Rents of Buildings and Other Property	76.30	76.30					
143	Miscellaneous	656.94	656.94					
	Total Incidental Operating Revenue	18,848.48	13,324.79	5,523.69				
151	Joint Facility—Cr	701.31	701.31					
152	Joint Facility—Dr							
	Total Joint Facility Operating Revenue	701.31	701.31					
	Total Railway Operating Revenues	1,358,327.03	17,054.95 16,075.59	1,261,628.15	79,643.93 80,623.29	36,322.91	7,593.01	35,728.01 36,707.37

Railway operating expenses for the year ended December 31, 1931

Acct. no.	Railway operating expenses	Total	Not related for purpose of this inquiry	Freight service—related solely to and apportioned	Passenger service—related solely to and apportioned	Passenger and miscellaneous*	Express*	Mail*	To be apportioned on car foot mile ratios
		1	2	3	4	5	6	7	8
	I. MAINTENANCE OF WAY AND STRUCTURES								
201	Superintendence	27,267.87		20,723.58	6,544.29				
202	Roadway Maintenance—Yard	494.16		444.74	49.42				
	Roadway Maintenance—Other	28,541.89		21,691.81	6,850.08				
203	Roadway Depreciation—Yard								
	Roadway Depreciation—Other								
204	Underground Power Tubes—Yard								
	Underground Power Tubes—Other								
205	Underground Power Tubes—Depreciation—Yard								
	Underground Power Tubes—Depreciation—Other								
206	Tunnels and Subways—Yard								
	Tunnels and Subways—Other								
207	Tunnels and Subways—Depreciation—Yard								
	Tunnels and Subways—Depreciation—Other								
208	Bridges, Trestles and Culverts—Yard	10.90		9.81	1.09				
	Bridges, Trestles and Culverts—Other	28,168.93		21,408.37	6,760.56				
209	Bridges, Trestles and Culverts—Depreciation—Yard								
	Bridges, Trestles and Culverts—Depreciation—Other								
210	Elevated Structures—Yard								
	Elevated Structures—Other								
211	Elevated Structures—Depreciation—Yard								
	Elevated Structures—Depreciation—Other								
212	Ties—Yard	3,228.16		2,905.34	322.82				
	Ties—Other	92,935.55		70,630.91	22,304.64				
213	Ties—Depreciation—Yard								
	Ties—Depreciation—Other								
214	Rails—Yard	220.98		198.88	22.10				
	Rails—Other	3,689.45		2,755.85	933.60				
215	Rails—Depreciation—Yard								
	Rails—Depression—Other								
216	Other Track Material—Yard	1,591.75		1,432.57	159.18				
	Other Track Material—Other	6,568.49		5,007.25	1,561.24				
217	Other Track Material—Depreciation—Yard								
	Other Track Material—Depreciation—Other								

* Except where specific directions for allocations are indicated, columns 5, 6, and 7 of this form are to be left blank.

Railway operating expenses for the year ended December 31, 1931—Continued

Acct. no.	Railway operating expenses	Total	Not related for purpose of this inquiry	Freight service—related solely to and apportioned	Passenger service—related solely to and apportioned	Passenger and miscellaneous*	Express*	Mail*	To be apportioned on car foot mile ratios
		1	2	3	4	5	6	7	8
	I. MAINTENANCE OF WAY AND STRUCTURES—continued								
218	Ballast—Yard								
	Ballast—Other								
219	Ballast—Depreciation—Yard								
	Ballast—Depreciation—Other								
220	Track Laying and Surfacing—Yard	4,384.75		3,946.27	438.48				
	Track Laying and Surfacing—Other	103,558.69		78,704.60	24,854.09				
221	Right-of-Way Fences—Yard								
	Right-of-Way Fences—Other	448.79		341.08	107.71				
222	Right-of-Way Fences—Depreciation—Yard								
	Right-of-Way Fences—Depreciation—Other								
223	Snow and Sand Fences and Snowsheds—Yard								
	Snow and Sand Fences and Snowsheds—Other								
224	Snow & Sand Fences & Snowsheds—Depreciation—Yard								
	Snow & Sand Fences & Snowsheds—Depreciation—Other								
225	Crossings and Signs—Yard	126.17		113.55	12.62				
	Crossings and Signs—Other	2,419.12		1,838.53	580.59				
226	Crossings and Signs—Depreciation—Yard								
	Crossings and Signs—Depreciation—Other								
227	Station and Office Buildings	3,233.22		2,457.25	775.97				
228	Station and Office Buildings—Depreciation								
229	Roadway Buildings	1,362.89		1,035.80	327.09				
230	Roadway Buildings—Depreciation								
231	Water Stations	3,690.41		2,841.62	848.79				
232	Water Stations—Depreciation								
	Totals carried forward	311,962.17		238,487.81	73,474.36				
232	Totals Brought Forward	311,962.17		238,487.81	73,474.36				
233	Fuel Stations	462.38		356.03	106.35				
234	Fuel Stations—Depreciation								
235	Shops and Enginehouses	3,055.24		2,291.43	763.81				
236	Shops and Enginehouses—Depreciation								
237	Grain Elevators								
238	Grain Elevators—Depreciation								
239	Storage Warehouses								
240	Storage Warehouses—Depreciation								
241	Wharves and Docks								
242	Wharves and Docks—Depreciation								
243	Coal and Ore Wharves								

244	Coal and Ore Wharves—Depreciation									
245	Gas Producing Plants									
246	Gas Producing Plants—Depreciation									
247	Telegraph and Telephone Lines	2,024.04		1,538.27	485.77					
248	Telegraph and Telephone Lines—Depreciation	116.42		78.00	38.42					
249	Signals and Interlockers									
250	Signals and Interlockers—Depreciation									
251	Power Plant Dams, Canals, and Pipe Lines									
252	Power Plant Dams, Canals, and Pipe Lines—Depreciation									
253	Power Plant Buildings									
254	Power Plant Buildings—Depreciation									
255	Power Substation Buildings									
256	Power Substation Buildings—Depreciation									
257	Power Transmission Systems									
258	Power Transmission Systems—Depreciation									
259	Power Distribution Systems									
260	Power Distribution Systems—Depreciation									
261	Power Line Poles and Fixtures									
262	Power Line Poles and Fixtures—Depreciation									
263	Underground Conduits									
264	Underground Conduits—Depreciation									
265	Miscellaneous Structures	197.85		150.37	47.48					
266	Miscellaneous Structures—Depreciation	52.78		40.11	12.67					
267	Paving									
268	Paving—Depreciation									
269	Roadway Machines	5,963.90		4,532.57	1,431.33					
270	Roadway Machines—Depreciation									
271	Small Tools and Supplies	4,305.73		3,272.35	1,033.38					
272	Removing Snow, Ice, and Sand									
273	Assessments for Public Improvements									
274	Injuries to Persons	829.00		630.04	198.96					
275	Insurance	1,444.31		1,097.68	346.63					
276	Stationery and Printing	668.16		507.80	160.36					
277	Other Expenses	5.00		3.80	1.20					
	Total of Accounts Nos. 201 to 277	331,086.98		252,986.26	78,100.72					
278	Maintaining Jt. Trks., Yds., Other Facilities—Dr	4,676.09		3,098.18	1,577.91					
279	Maintaining Jt. Trks., Yds., Other Facilities—Cr	Red 619.03		Red 470.46	Red 148.57					
280	Equalization—Way and Structures									
	Total Maintenance of Way and Structures	335,144.04		255,613.98	79,530.06					79,530.06
	II. MAINTENANCE OF EQUIPMENT									
301	Superintendence	16,218.28		12,163.71	4,054.57					
302	Shop Machinery	2,688.73		2,016.55	672.18					
303	Shop Machinery—Depreciation									
304	Power Plant Machinery									
	Totals Carried Forward	18,907.01		14,180.26	4,726.75					

*Except where specific directions for allocations are indicated, columns 5, 6, and 7 of this form to be left blank.

Railway operating expenses for the year ended December 31, 1931—Continued

Acct. no.	Railway operating expenses	Total	Not related for purpose of this inquiry.	Freight service—related solely to and apportioned	Passenger service—related solely to and apportioned	Passenger and miscellaneous*	Express*	Mail*	To be apportioned on car foot mile ratios
		1	2	3	4	5	6	7	8
	II. MAINTENANCE OF EQUIPMENT—continued								
283	Totals Brought Forward	18,907.01		14,180.26	4,726.75				
305	Power Plant Machinery—Depreciation								
306	Power Substation Apparatus								
307	Power Substation Apparatus—Depreciation								
308	Steam Locomotives—Repairs	101,773.41		72,344.73	29,428.68				
309	Steam Locomotives—Depreciation	8,856.24		5,933.68	2,922.56				
310	Steam Locomotives—Retirements								
311	Other Locomotives—Repairs								
312	Other Locomotives—Depreciation								
313	Other Locomotives—Retirements								
314	Freight-Train Cars—Repairs	44,298.78		44,298.78					
315	Freight-Train Cars—Depreciation	34,659.23		34,659.23					
316	Freight-Train Cars—Retirements	282.59		282.59					
317	Passenger-Train Cars—Repairs	17,349.91			17,349.91				
318	Passenger-Train Cars—Depreciation	2,182.92			2,182.92				
319	Passenger-Train Cars—Retirements								
320	Motor Equipment of Cars—Repairs								
321	Motor Equipment of Cars—Depreciation								
322	Motor Equipment of Cars—Retirements								
323	Floating Equipment—Repairs								
324	Floating Equipment—Depreciation								
325	Floating Equipment—Retirements								
326	Work Equipment—Repairs	3,230.31		2,455.04	775.27				
327	Work Equipment—Depreciation	1,739.52		1,322.04	417.48				
328	Work Equipment—Retirements								
329	Miscellaneous Equipment—Repairs								
330	Miscellaneous Equipment—Depreciation	397.05		297.79	99.26				
331	Miscellaneous Equipment—Retirements	112.50		84.37	28.13				
332	Injuries to Persons	601.02		450.76	150.26				
333	Insurance	1,857.92		1,393.44	464.48				
334	Stationery and Printing	720.35		540.26	180.09				
335	Other Expenses								
	Total of Accounts Nos. 301 to 335	236,968.76		178,242.97	58,725.79				
336	Maintaining Joint Equipment—Dr								
337	Maintaining Joint Equipment—Cr								

338	Equalization—Equipment								
	Total Maintenance of Equipment	236,968.76		178,242.97	58,725.79				58,725.79
	III. TRAFFIC								
351	Superintendence	32,253.37		27,121.83	5,131.54				5,131.54
352	Outside Agencies	71,723.27		71,723.27					
353	Advertising	1,014.32		277.64	736.68	$736.68			
354	Traffic Associations	2,088.05		1,933.25	154.80	154.80			
355	Fast Freight Lines								
356	Industrial and Immigration Bureaus	6,658.64		6,259.12	399.52	399.52			
357	Insurance	67.53		63.48	4.05	4.05			
358	Stationery and Printing	5,280.88		4,894.69	386.19				386.19
359	Other Expenses								
	Total of Accounts Nos. 351 to 359	119,086.06		112,273.28	6,812.78	1,295.05			5,517.73
	IV. TRANSPORTATION—RAIL LINE								
371	Superintendence	18,293.23		14,268.72	4,024.51				
372	Dispatching Trains	8,987.17		5,841.66	3,145.51				
373	Station Employees	109,253.61	$779.94	91,666.29	16,807.38				
374	Weighing, Inspection and Demurrage Bureaus	3,029.82		3,029.82					
375	Coal and Ore Wharves								
	Totals Carried Forward	139,563.83	779.94	114,806.49	23,977.40				
234	Totals brought forward	139,563.83	779.74	114,806.49	23,977,60				
376	Station Supplies and Expenses	4,141.64		3,230.48	911.16				
377	Yardmasters and Yard Clerks	6,899.61		6,209.65	689.96				
378	Yard Conductors and Brakemen	13,571.46		12,214.31	1,357.15				
379	Yard Switch and Signal Tenders								
380	Yard Enginemen	8,451.17		7,606.05	845.12				
381	Yard Motormen								
382	Fuel for Yard Locomotives	8,438.07		7,594 26	843.81				
383	Yard Switching Power Produced								
384	Yard Switching Power Purchased								
385	Water for Yard Locomotives	80.54		72.49	8.05				
386	Lubricants for Yard Locomotives	102.89		92.60	10.29				
387	Other Supplies for Yard Locomotives								
388	Enginehouse Expenses—Yard	119.02		107.12	11.90				
389	Yard Supplies and Expenses	344.36		309.92	34.44				
392	Train Enginemen	75,391.44		54,940.91	20,450.53				
393	Train Motormen	853.38			853.38				
394	Fuel for Train Locomotives	117,301.61		89,176.33	28,125.28				
395	Train Power Produced								
396	Train Power Purchased								
397	Water for Train Locomotives	6,791.31		5,161.40	1,629.91				
398	Lubricants for Train Locomotives	1,652.97		1,173.73	479.24				
399	Other Supplies for Train Locomotives	1,221.16		911.45	309.71				
400	Enginehouse Expenses—Train	21,706.73		14,543.51	7,163.22				
401	Trainmen	88,891.97		70,340.97	18,551.00				

*Except where specific directions for allocations are indicated, columns 5, 6, and 7 of this form to be left blank.

Railway operating expenses for the year ended December 31, 1931—Continued

Acct. no.	Railway operating expenses	Total	Not related for purpose of this inquiry	Freight service—related solely to and apportioned	Passenger service—related solely to and apportioned	Passenger and miscellaneous *	Express *	Mail *	To be apportioned on car foot mile ratios
		1	2	3	4	5	6	7	8
	IV. TRANSPORTATION—RAIL LINE—continued								
402	Train Supplies and Expenses	7,062.08		2,393.32	4,668.76				
403	Operating Sleeping Cars								
404	Signal and Interlocker Operation	170.92		114.52	56.40				
405	Crossing Protection	10.05		6.73	3.32				
406	Drawbridge Operation	410.38		320.10	90.28				
407	Telegraph and Telephone Operation	177.24		138.25	38.99				
408	Operating Floating Equipment								
409	Express Service								
410	Stationery and Printing	5,559.83		4,336.67	1,223.16				
411	Other Expenses	691.09		539.05	152.04				
414	Insurance	1,993.64		1,555.04	438.60				
415	Clearing Wrecks	2,464.82		1,922.56	542.26				
416	Damage to Property	1,628.07		1,269.89	358.18				
417	Damage to Live Stock on Right-of-Way	3,928.50		3,064.23	864.27				
418	Loss and Damage—Freight	10,773.26		10,773.26					
419	Loss and Damage—Baggage	30.45		30.45					
420	Injuries to Persons	8,706.25		6,790.87	1,915.38				
	Total excluding accounts nos. 390, 391, 412 and 413	539,129.74	779.74	421,746.61	116,603.39				
390	Operating Joint Yards and Terminals—Dr	12,144.38	689.04	7,795.86	3,659.48				
391	Operating Joint Yards and Terminals—Cr								
412	Operating Joint Tracks and Facilities—Dr	3,469.83		262.56	3,207.27				
413	Operating Joint Tracks and Facilities—Cr								
	Total Transportation—Rail Line	554,743.95	1,468.78	429,805.03	123,470.14				123,470.14
	V. TRANSPORTATION—WATER LINE								
431	Operation of Vessels								
432	Operation of Terminals								
433	Incidental								
	Total Transportation—Water Line								
235	VI. MISCELLANEOUS OPERATIONS								
441	Dining and Buffet Service								
442	Hotels and Restaurants								
443	Grain Elevators	2,545.45	2,545.45						
444	Stockyards								

446	Other Miscellaneous Operations								
	Total Miscellaneous Operations	2,545.45	2,545.45						
	VII. GENERAL								
451	Salaries and Expenses of General Officers	17,024.77		13,279.32	3,745.45				
452	Salaries and Expenses of Clerks and Attendants	43,037.03		35,290.39	7,746.64				
453	General Office Supplies and Expenses	4,178.73		3,259.41	919.32				
454	Law Expenses	13,948.84		10,880.10	3,068.74				
455	Insurance	624.06		486.77	137.29				
456	Relief Department Expenses								
457	Pensions	107.15		83.58	23.57				
458	Stationery and Printing	4,008.29		3,126.47	881.82				
459	Valuation Expenses	3,461.57		2,700.02	761.55				
460	Other Expenses	24.27		18.93	5.34				
	Total of Accounts Nos. 451 to 460	86,414.71		69,124.99	17,289.72				
461	General Joint Facilities—Dr	488.36		274.17	214.19				
462	General Joint Facilities—Cr								
	Total General Expenses	86,903.07		69,399.16	17,503.91				17,503.91
	VIII. TRANSPORTATION FOR INVESTMENT—CR	Red 813.74		Red 813.74					
	Grand Total Railway Operating Expenses	1,334,577.59	4,014.23	1,044,520.68	286,042.68	1,295.05			284,747.63
	Operating Ratio (based upon Total Operating Revenues, Column 1, Form R. M. P. 50 and Grand Total Operating Expenses, Column 1, Form R. M. P. 51, page 5)	98.25							
(A)	Adjustment for Revenue Account, 111		1,247.33	Red 1,007.09	Red 240.24				Red 240.24
(B)	Adjustment for Mail Motor Cars		979.36		Red 979.36				Red 979.36
(C)	Adjustment for Revenue Accounts 133, 142, and 143		720.41	Red 565.52	Red 154.89				Red 154.89
(D)	Adjustment for Revenue Accounts 134 and 136		.54		Red .54				Red .54
	Grand Total After Adjustments A; B, C, and D	1,334,577.59	6,962.06 5,982.51	1,042,948.07	284,667.46 285,647.01	1,295.05			283,392.41 284,351.96
(E)	Adjustment Account Maintenance, Pullman Operated Equipment in Accounts 317 to 322, inclusive, on basis of Car Foot Mile Ratios, Railroad Owned Equipment								
	Apportionment of Column 8 to Columns 5, 6, and 7, Car Foot Mile Ratios, developed in Space Study								
	Final Amounts Allocated and Apportioned								

*Except where specific directions for allocations are indicated, columns 5, 6, and 7 of this form to be left blank.

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Operating and traffic statistics for the year 1931

SECTION I—STATISTICS OF RAIL-LINE OPERATIONS—I. C. C., P. 508

Train miles		Total	Freight	Passenger	Special
Freight	I. C. C. 13	307,596	307,596		
Passenger	I. C. C. 14	224,459		224,459	
Mixed*	I. C. C. 15	149,268	119,131	30,137	
Special	I. C. C. 16	472			472
Total	I. C. C. 17	681,795	426,727	254,596	472

Locomotive miles		Total	Freight	Passenger	Special
Freight	I. C. C. 24	326,018	316,018		
Passenger	I. C. C. 28	205,315		205,315	
Mixed*	I. C. C. 32	156,188	124,654	31,534	
Special	I. C. C. 36	482			482
Total		688,003	450,672	236,849	482
Yard switching	38-39-40	(40) 46,617	(39) 41,772	(39) 4,845	

Freight train car miles		Regular	Mixed	Special	Total
Loaded	I. C. C. 51-62-71	3,916,683	539,809	7,534	4,464,026
Empty	I. C. C. 52-63-72	1,835,400	303,914		2,139,314
Caboose	I. C. C. 54-64-73	296,773		454	297,227
Work	I. C. C. 55-65-74	63,558			63,558
Total		6,112,414	843,723	7,988	6,964,125

Ratio of freight car miles in mixed trains 79.81.

Passenger train car miles		Regular	Mixed	Special	Total
Passenger	I. C. C. 57-66-75	413,588	212,792	1,906	628,286
Sleeping	I. C. C. 58-67-76	42,138			42,138
Dining	I. C. C. 59-68-77				
Other	I. C. C. 60-69-78	196,860	680		197,540
Total	I. C. C. 61-70-79	652,586	213,472	1,906	876,964

*Apply ratios of freight and passenger train car miles in mixed trains.
Ratio of passenger car miles in mixed trains 20.19.
Electric locomotive miles included above none.
Motor car miles included above 20,803.

SECTION II—FREIGHT AND PASSENGER CAR MILE RELATIONS BY CLASSES OF TRAINS

Line no.	I. C. C. item no. (a)	Class of train (b)	Steam and electric car miles (c)	Ratios (d)
1	51-52-54	Freight Train Car Miles—Freight Trains	6,048,856	
2	62-64 Inc.	Freight Train Car Miles—Mixed Trains	843,723	
3	71-73 Inc.	Freight Train Car Miles—Special Trains	7,988	
4		Total	6,900,567	
5	57-60 Inc.	Pass. Train Car Miles—Pass. Trains	652,586	
6	66-69 Inc.	Pass. Train Car Miles—Mixed Trains	213,472	
7	75-78 Inc.	Pass. Train Car Miles—Special Trains	1,906	
8		Total	867,964	
9	(Line 1+5)	Total Car Miles—Freight and Pass. Trains	6,701,442	
10	(Line 2+6)	Total Car Miles—Mixed Trains	1,057,195	
11	(Line 3+7)	Total Car Miles—Special Trains	9,894	
12	(Line 4+8)	Total Car Miles—All Trains	7,768,531	

NOTE.—Show information in Column (c) only. Column (d) to be left blank.

Operating and traffi statistics for the year 1931—Continued

SECTION III—MILEAGE STATISTICS—I. C. C., PP.400-B AND 401

Table 411	Items	Line operated at close of calendar year 1925								
		Line owned		Line of proprietary companies	Line operated under lease	Line operated under contract	Line operated under tr. right	Total mileage operated	Line owned but not operated	
		Main line	Branch line						Main line	Branch line
		1	2	3	4	5	6	7	8	9
D	Miles of Road	305.69	114.87		37.48		5.57	463.61		
E	Miles Second Main Track									
F	Miles Third Main Track									
G	Miles Fourth Main Track									
H	Miles All Other Main Track								None.	
I	Miles Industrial Track									
J	Miles Yard Tracks and Sidings	18.76	4.45		.49			23.70		
		35.85	7.85		2.87		5.44	52.01		
K	Total—All Tracks	360.30	127.17		40.84		11.01	539.32		

SECTION IV—PROPERTY INVESTMENT (1)

Acct. no.	(1) Total property investment should include all property used to produce revenues reported on Form R. M. P. 50	Property investment as of Dec. 31, 1931	Accrued depreciation as of Dec. 31, 1931	Net property investment as of Dec. 31, 1931
	ROAD			
701	Road, including Operated Leased Lines	$20,168,870.29	None	$20,168,870.29
702	Improvements on Leased Property	36,182.45		36,182.45
	Total Road	20,205,052.74		20,205,052.74
	EQUIPMENT			
701	Equipment	1,580,912.09	$233,114.31	1,347,797.78
701	Equipment Leased Lines			
	Total Equipment	1,580,912.09	233,114.31	1,347,797.78
	Total Road and Equipment	21,785,964.83	233,114.31	21,552,850.52
708	Cash	20,367.55		20,367.55
716	Materials and Supplies	71,951.41		71,951.41
	Total Investment	21,878,283.79	233,114.31	21,645,169.48

SECTION V—TRAFFIC DATA—I. C. C., PP. 508 AND 509

I. C. C. No.	Freight		I. C. C. No.	Passenger	
91	Number Tons Revenue Carried	866,432	185	Average Revenue per Ton of Freight	1.44428
92	Number Tons Non-Revenue Freight Carried	49,023	186	Average Revenue per Ton Mile of Freight	.01571
93	Total Tons All Freight Carried	915,455	97	Number Revenue Passengers Carried	34,993
94	Ton Miles Revenue Freight	79,641,438	98	Number Revenue Passengers One Mile	1,256,719
95	Ton Miles Non-Revenue Freight	6,017,521	102	Passenger Revenue	36,121.13
96	Total Ton Miles All Freight	85,658,959	103	Passenger Service Train Revenue	80,787.04
	Total Gross Ton Miles Freight Service (Excluding Locomotive and Tender)	245,906	139	Revenue Passenger Miles per Train Mile	5.38
101	Freight Revenue	1,251,369.74	141	Passenger Service Train Revenue per Train Mile	.35
135	Ton Miles Revenue Freight per Train Mile	186.51	184	Average Miles Carried, Revenue Passenger	35.91
136	Ton Miles All Freight per Train Mile	200.60	187	Average Revenue per Passenger	1.03224
140	Freight Revenue per Train Mile	2.93	188	Average Revenue per Passenger Mile	.02874
181	Average Miles Hauled, Revenue Freight	91.92			

Income account for the year ended December 31, 1931

Acct. no.	Income account	Total	Not related for purpose of this inquiry	Freight service—related solely to and apportioned	Passenger service—related solely to and apportioned	Passenger and miscellaneous*	Express*	Mail*	To be apportioned on car-foot mile ratios
		1	2	3	4	5	6	7	8
501	Total Operating Revenues (Form 50)	$1,358,327.03	$17,054.95 16,075.50 6,962.06	$1,261,628.15	$79,643.93 80,623.29 284,667.46	$36,322.91	$7,593.01	$35,728.01 36,707.37	
531	Total Operating Expenses (Form 51—p. 5)	1,334,577.59	5,982.51 429.86	1,042,948.07 64,602.70	285,647.01 17,632.45	1,295.05			$283,372.41
532	Railway Tax Accruals	82,665.01	157.06	64,718.44	17,789.51				
533	Uncollectible Railway Revenues	253.35		253.35					
	NON-OPERATING INCOME								
503	Hire of Freight Cars—Cr. Balance								
504	Rent from Locomotives	1,730.40		1,134.28	596.12				
505	Rent from Passenger Train Cars	80.00			80.00				
506	Rent from Floating Equipment								
507	Rent from Work Equipment	3,537.40		2,688.42	848.98				
508	Joint Facility Rent Income	862.33		655.37	206.96				
	Total Non-Operating Income	6,210.12		4,478.07	1,732.06				
	DEDUCTIONS FROM INCOME								
536	Hire of Freight Cars—Dr. Balance	6,360.96		6,360.96					
537	Rent for Locomotives	9.37		6.14	3.23				
538	Rent for Passenger Train Cars	1,504.85			1,504.85				
539	Rent for Floating Equipment								
540	Rent for Work Equipment	49.08		37.30	11.78				
541	Joint Facility Rents	30,591.88		17,406.78	13,185.10				
	Total Deductions From Income	38,516.14		23,811.18	14,704.96				
	Net Balance—Income Items	Red 32,306.01		Red 19,333.11	Red 12,972.90				
	Total All Expenses	1,449,801.96	7,391.92 6,139.57	1,127,137.23 1,127,282.97	315,372.81 316,409.42	1,295.05			313,977.76
	Net Railway Operating Income	Red 91,474.93	9,936.02 9,663.03	134,375.18 143,490.92	Red 235,628.88				

Reconciliation of Net Railway Operating Income shown in this return with Standard Net Railway Operating Income. Adjustments plus or minus in Column 1 only.								
Standard Net Railway Operating Income	Red 92,091.12							
Difference in Mail Revenue	Red 416.33							
" " Express Revenue	1,032.52							
" All Other								
Net as shown in this return	Red 91,474.93							

* Except where specific directions for allocations are indicated, columns 5, 6, and 7 of this form are to be left blank.

GEORGIA & FLORIDA RAILROAD,
By W. V. GRIFFIN & H. W. PURVIS, *Receivers.*
H. W. PURVIS, *General Manager.*

From the total property investment shown in Section IV, of Form RMP 53, the following items should be separately stated:

1. The total investment in main or branch line tracks, buildings, and all other facilities operated for freight service only	$3,513,125.92
2. The total investment in road, including buildings and all other facilities of subsidiary railroads operated for freight service only	None
3. The total investment in industry tracks and facilities	214,039.91
4. The total investment in properties, the operating expenses of which are included in the following accounts:	
443—Grain Elevators	None
444—Stock Yards	None
5. The total investment in road not in use, but carried on books of owning road	None
6. The total investment in road abandoned, but not yet written off books	530,498.06
7. The total investment in real estate held for railroad purposes and not yet used	None
8. The total investment in coal, water, or other companies, the product of which is used in operation of the road and charged into the operating expenses	None
9. The total investment in the following specific items, taken from your annual report or from other sources (specific items, if any, to be stated)	None

INSTRUCTIONS

The total amount of investment in the properties described above should be furnished in every instance where the information is available from the books or other records of the carrier. The inability to furnish data for one or more of the items does not mean that information cannot be furnished for other items. The returns should be as full and complete as possible.

One copy of the form should be sent to Mr. Jennings C. Wise, Special Assistant to the Attorney General, Room 207, Post Office Department Building, Washington, D. C.

Investment in equipment as of December 31, 1931

[NOTE.—Columns 6 to 8, inclusive, to be left blank]

	Equipment (designated under I. C. C. classification, with selected sub-classes)	Total number owned	Total value reported to I. C. C.	Not related	Value of equipment assigned to freight service	Value of equipment assigned to passenger service	Value of equipment assigned to—		
							Passenger	Express	Mail
		1	2	3	4	5	6	7	8
51	Steam Locomotives (Including Tenders):								
	1. Locomotives used in Freight Service or Passenger Service, exclusively	17	193, 732. 27		141, 923. 04	51, 809. 23			
	2. Locomotives used in Freight, Passenger, Mixed, Special, and Switching Services	15	101, 474. 58		82, 569. 40	18, 905. 18			
	3. All other Locomotives								
	Total for Steam Locomotives	32	295, 206. 85		224, 492. 44	70, 714. 41			
52	Other Locomotives:								
	1. Electric Locomotives:								
	(a) Locomotives used in Freight Service or Passenger Service, exclusively								
	(b) Locomotives used in Freight, Passenger, Mixed, Special, and Switching Services								
	(c) All other Locomotives								
	Total for Electric Locomotives								
	2. All Other Locomotives								
53	Freight Train Cars (Total of all classes)	629	1, 153, 197. 13		1, 153, 197. 13				
54	Passenger Train Cars:								
	1. Coaches, Parlor, Sleeping, Dining, Observation, and other exclusive passenger	13	39, 575. 87			39, 575. 87			
	2. Refrigerator Express cars for express exclusively								
	3. Railway Post Office cars for mail exclusively	1	225. 00			225. 00			
	4. Mail Storage cars for mail exclusively								
	5. Milk cars for milk exclusively								
	6. All Other head end cars without apartments								
	7. All Combination and Apartment Cars	14	34, 023. 61			34, 023. 61			
55	Motor Equipment of Cars:								
	1. In Freight Service or Passenger Service, exclusively								
	2. All Other								
	Total for Motor Equipment of Cars								

Investment in equipment as of December 31, 1931—Continued

[NOTE.—Columns 6 to 8, inclusive, to be left blank]

	Equipment (designated under I. C. C. classification, with selected sub-classes)	Total number owned	Total value reported to I. C. C.	Not related	Value of equipment assigned to freight service	Value of equipment assigned to passenger service	Value of equipment assigned to—		
							Passenger	Express	Mail
		1	2	3	4	5	6	7	8
56	Floating Equipment:								
	1. In "Water-Line Transportation" Service								
	2. In Ferry or "Water Transfer" Service								
	(a) In Freight Service or Passenger Service, exclusively								
	(b) All Other								
	Total for Floating Equipment								
57	Work Equipment (Total of All Classes)	53	57, 178. 63		43, 455. 76	13, 722. 87			
58	Miscellaneous Equipment	2	1, 505. 00		1, 128. 75	376. 25			
	Total Investment in Equipment		1, 580, 912. 09		1, 422, 214. 08	158, 638. 01			

Date Reported, ——, 1926.

[SEAL]

GEORGIA & FLORIDA RAILROAD,
W. V. GRIFFIN & H. W. PURVIS, *Receivers*
H. W. PURVIS, *General Manager.*

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Working sheet to be used for developing ratios for application to certain accounts in the preparation of financial forms R. M. P. 50 to 52

[IMPORTANT.—All percentages to be carried out two places beyond the decimal, and data carefully prepared and verified. Errors in compilation will necessitate changes through all forms]

BASE.—To determine Ratios for apportioning remainder of Account 407 after elimination of expenses applicable to Revenue Account 138—Telegraph and Telephone:

Account	Total*	Freight	Passenger
407	$177.24 (100.00%)	$138.25 (78.0%)	$38.99 (22.00%)

*Excluding Not Related, if any.

BASE 2.—To determine Ratios for apportionment of Expenses applicable to Net Credit of Revenue Accounts 151 and 152, Joint Facility (Restatement of Account 390):

Account	Total*	Freight	Passenger
278	$4,676.09	$3,098.18	$1,577.91
336			
390	12,144.38	8,187.92	3,956.46
412	3,469.83	262.56	3,207.27
461	488.36	274.17	214.19
Total	20,778.66 (100.00%)	11,822.83 (56.90%)	8,955.83 (43.10%)

*Excluding Not Related, if any.

BASE 3.—To determine Ratios for apportionment of Expenses applicable to Net Debit of Revenue Accounts 151 and 152, Joint Facility (Restatement of Account 391):

Account	Total*	Freight	Passenger
279	$619.03	$470.46	$148.57
337			
391			
413			
462			
Total	619.03 (100.00%)	470.46 (76.00%)	148.57 (24.00%)

*Excluding Not Related, if any.

BASE 4.—Adjustment "A." To determine Ratios for apportionment of Expenses applicable to Revenue Account 111—Special Service Train. From Section I Form R. M. P. 53:

	Total	Freight	Passenger
Car Miles	9,894	7,988	1,906
Special Service			
Trains	(100.00%)	(80.74%)	(19.26%)

BASE 5.—Adjustment "B." To determine Ratios for apportionment of Expenses applicable to Revenue Accounts 113, 114, 115, and 116—Water Transfers:

Account	Total*	Freight	Passenger
323			
324		None	
325			
408			
Total	(100.00%)	(%)	(%)

*Excluding Not Related, if any.

Working sheet to be used for developing ratios for application to certain accounts in the preparation of financial forms R. M. P. 50 to 52—Continued

BASE 6.—Adjustment "C." To determine Ratios for apportionment of Expenses applicable to Revenue Accounts 133, 142, and 143:

Total Operating Expenses—Columns 3 and 4, Form R. M. P. 51, p. 5

Account	Total*	Freight	Passenger
531	$1,330,563.36 (100.00%)	$1,044,520.68 (78.50%)	$286,042.68 (21.50%)

*Excluding Not Related, Column 2.

BASE 7.—Adjustment "D." Expenses based upon operating ratio Revenue Accounts 134 and 136. Credited wholly to columns 4 and 8

BASE 8.—Maintenance Charges—Passenger Equipment

Account	Column 4—Page 3, Form R. M. P. 51
317	$17,349.91
318	2,182.92
319	
320	
321	
322	
Total	19,532.83

Show entries for accounts only. Data to be used in Statistician's Office.

BASE 9.—To determine ratio for apportionment of Railway Tax Accruals, Account 532. Total Operating Expenses—Columns 1, 2, 3, and 4, Form R. M. P. 52:

Account	Total	Not related	Freight	Passenger
531	$1,334,577.59 (100.00%)	$2,545.45 (0.19%)	$1,044,912.74 (78.29%)	$287,119.40 (21.52%)

BASE 10.—To determine Ratios for apportionment of unallocated Rent from Locomotives—Account 504:

	Total*	Freight	Passenger
Locomotive Miles	687,521 (100.00%)	450,672 (65.55%)	236,849 (34.45%)

*From Section I Form R. M. P. 53, excluding Special.

ACCOUNT 506.—Rent from Floating Equipment, Use ratios developed in Base 5. None.

BASE 11.—To determine Ratios for apportionment of Account 507—Rent from Work Equipment:

Account	Total*	Freight	Passenger
326	$3,230.31	$2,455.04	$775.27
327	1,739.52	1,322.04	417.48
328			
Total	4,969.83 (100.00%)	3,777.08 (76.00%)	1,192.75 (24.00%)

*Excluding Not Related, if any.

ACCOUNT 508—Joint Facility Rent Income, Use ratios developed in Base 3.
ACCOUNT 537—Rent for Locomotives, Use ratios developed in Base 10.
ACCOUNT 539—Rent for Floating Equipment, Use ratios developed in Base 5. None.
ACCOUNT 540—Rent for Work Equipment, Use ratios developed in Base 11.
ACCOUNT 541—Joint Facility Rents, Use ratios developed in Base 2.

NOTE.—Read instructions carefully and address all inquiries concerning the preparation of data to L. E. Wettling, Statistician, Committee on Railway Mail Pay, 16 Chicago Union Station, Chicago, Illinois, with copy to Hon. Joseph Stewart, Special Assistant to the Attorney General, Room 207, Post Office Department Building, Washington, D. C.

One typewritten copy of working sheet should accompany completed financial forms transmitted to the Post Office Department and one copy to accompany those transmitted to Statistician.

241 *Exhibit No. 734, eleven pages, follows*

242 GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN & H. W. PURVIS, RECEIVERS

Railway Operating Revenues for the year ended December 31, 1930

Acct. no.	Class of railway operating revenues	Amount of revenue for the year	Not related for purpose of this inquiry	Assignable to freight service	Assignable to passenger service	Passenger and miscellaneous	Express	Mail
		1	2	3	4	5	6	7
101	Freight	1,544,807.79		1,544,807.79				
102	Passenger	62,985.64			62,985.64	62,985.64		
103	Excess Baggage	484.74			484.74	484.74		
104	Sleeping Car							
105	Parlor and Chair Car				39,087.46			39,087.46
106	Mail	39,546.22	458.76		39,546.22			39,546.22
106-A	Side and Terminal Service	828.78	828.78					
107	Express	12,463.98			12,463.98		12,463.98	
108	Other Passenger-Train	562.06			562.06	562.06		
109	Milk	6.22			6.22	6.22		
110	Switching	6,097.57		6,097.57				
111	Special Service Train	823.00	823.00					
112	Other Freight Train							
113	Water Transfers—Freight							
114	Water Transfers—Passenger							
115	Water Transfers—Vehicles and Live Stock							
116	Water Transfers—Other							
	Total rail-line Transportation Revenue	2,110.54 1,668,606.00	2,110.54 1,651.78	1,550,905.36	115,590.10 116,048.86	64,038.66	12,463.98	39,087.46 39,546.22
121	Freight							
122	Passenger							
123	Excess Baggage							
124	Other Passenger Service							
125	Mail							
126	Express							
127	Special Service							
128	Other							
	Total Water-line Transportation Revenue							
131	Dining and Buffet							
132	Hotel and Restaurant	15,144.40	15,144.40					
133	Station, Train, and Boat Privileges							
134	Parcel Room							
135	Storage—Freight	2,550.37		2,550.37				
136	Storage—Baggage	1.20	1.20					
137	Demurrage	7,097.00		7,097.00				
138	Telegraph and Telephone							
139	Grain Elevator							
140	Stockyard							
141	Power							
142	Rents of Buildings and Other Property	87.50	87.50					
143	Miscellaneous	955.59	955.59					
	Total incidental Operating Revenue	25,836.06	16,188.69	9,647.37				
151	Joint Facility—Cr	828.80	828.80					
152	Joint Facility—Dr							
	Total Joint Facility Operating Revenue	828.80	828.80					
	Total Railway Operating Revenues	19,128.03 1,695,270.86	19,128.03 18,669.27	1,560,552.73	115,590.10 116,048.86	64,038.66	12,463.98	39,087.46 39,546.22

Railway operating expenses for the year ended December 31, 1930

Acct. no.	Railway operating expenses	Total	Not related for purpose of this inquiry	Freight service—solely to and apportioned	Passenger service—related solely to and apportioned	Passenger and miscellaneous*	Express*	Mail*	To be apportioned on car-foot-mile ratios
		1	2	3	4	5	6	7	8
	1. MAINTENANCE OF WAY AND STRUCTURES								
201	Superintendence	28,138.83		22,229.68	5,909.15				
202	Roadway Maintenance—Yard	773.20		695.88	77.32				
	Roadway Maintenance—Other	35,434.02		27,638.54	7,795.48				
203	Roadway Depreciation—Yard								
	Roadway Depreciation—Other								
204	Underground Power Tubes—Yard								
	Underground Power Tubes—Other								
205	Underground Power Tubes—Depreciation—Yard								
	Underground Power Tubes—Depreciation—Other								
206	Tunnels and Subways—Yard								
	Tunnels and Subways—Other								
207	Tunnels and Subways—Depreciation—Yard								
	Tunnels and Subways—Depreciation—Other								
208	Bridges, Trestles, and Culverts—Yard	93.39		84.05	9.34				
	Bridges, Trestles, and Culverts—Other	37,211.41		29,024.90	8,186.51				
209	Bridges, Trestles, and Culverts—Depreciation—Yard								
	Bridges, Trestles, and Culverts—Depreciation—Other								
210	Elevated Structures—Yard								
	Elevated Structures—Other								
211	Elevated Structures—Depreciation—Yard								
	Elevated Structures—Depreciation—Other								
212	Ties—Yard	2,518.45		2,266.61	251.84				
	Ties—Other	93,969.66		73,296.33	20,673.33				
213	Ties—Depreciation—Yard								
	Ties—Depreciation—Other								
214	Rails—Yard	7.14		6.43	.71				
	Rails—Other	3,393.07		2,646.59	746.48				
215	Rails—Depreciation—Yard								
	Rails—Depreciation—Other								
216	Other Track Material—Yard	145.55		131.00	14.55				
	Other Track Material—Other	8,757.08		8,564.43	192.65				
217	Other Track Material—Depreciation—Yard								
	Other Track Material—Depreciation—Other								

218	Ballast—Yard								
	Ballast—Other	18.00		14.04	3.96				
219	Ballast—Depreciation—Yard								
	Ballast—Depreciation—Other								
220	Track Laying and Surfacing—Yard	3,958.48		3,562.63	395.85				
	Track Laying and Surfacing—Other	122,754.06		95,748.18	27,005.88				
221	Right-of-Way Fences—Yard	3.43		3.09	.34				
	Right-of-Way Fences—Other	395.26		308.32	86.96				
222	Right-of-Way Fences—Depreciation—Yard								
	Right-of-Way Fences—Depreciation—Other								
223	Snow and Sand Fences and Snowsheds—Yard								
	Snow and Sand Fences and Snowsheds—Other								
224	Snow & Sand Fences & Snowsheds—Depreciation—Yard								
	Snow & Sand Fences & Snowsheds—Depreciation—Other								
225	Crossings and Signs—Yard	41.28		37.15	4.13				
	Crossings and Signs—Other	1,737.43		1,355.20	382.23				
226	Crossings and Signs—Depreciation—Yard								
	Crossings and Signs—Depreciation—Other								
227	Station and Office Buildings	6,346.69		5,013.89	1,332.80				
228	Station and Office Buildings—Depreciation								
229	Roadway Buildings	953.03		743.37	209.66				
230	Roadway Buildings—Depreciation								
231	Water Stations	2,751.25		2,173.49	577.76				
232	Water Stations—Depreciation								
	Totals carried forward	349,400.73		275,543.80	73,856.93				
244	Totals Brought Forward	349,400.73		275,543.80	73,856.93				
233	Fuel Stations	4,053.54		3,202.30	851.24				
234	Fuel Stations—Depreciation								
235	Shops and Enginehouses	6,319.32		4,613.10	1,706.22				
236	Shops and Enginehouses—Depreciation								
237	Grain Elevators								
238	Grain Elevators—Depreciation								
239	Storage Warehouses								
240	Storage Warehouses—Depreciation								
241	Wharves and Docks								
242	Wharves and Docks—Depreciation								
243	Coal and Ore Wharves								
244	Coal and Ore Wharves—Depreciation								
245	Gas Producing Plants								
246	Gas Producing Plants—Depreciation								
247	Telegraph and Telephone Lines	2,182.94		1,724.52	458.42				
248	Telegraph and Telephone Lines—Depreciation								
249	Signals and Interlockers	280.83		185.29	95.54				
250	Signals and Interlockers—Depreciation								
251	Power Plant Dams, Canals and Pipe Lines								
252	Power Plant Dams, Canals and Pipe Lines—Depreciation								
253	Power Plant Buildings								
254	Power Plant Buildings—Depreciation								

*Except where specific directions for allocations are indicated, columns 5, 6 and 7 of this form are to be left blank.

Railway operating expenses for the year ended December 31, 1930—Continued

Acct. no.	Railway operating expenses	Total	Not related for purpose of this inquiry	Freight service—solely to and apportioned	Passenger service—related solely to and apportioned	Passenger and miscellaneous*	Express*	Mail*	To be apportioned on car-foot mile ratios
		1	2	3	4	5	6	7	8
	I. MAINTENANCE OF WAY AND STRUCTURES—continued								
255	Power Substation Buildings								
256	Power Substation Buildings—Depreciation								
257	Power Transmission Systems								
258	Power Transmission Systems—Depreciation								
259	Power Distribution Systems								
260	Power Distribution Systems—Depreciation								
261	Power Line Poles and Fixtures								
262	Power Line Poles and Fixtures—Depreciation								
263	Underground Conduits								
264	Underground Conduits—Depreciation								
265	Miscellaneous Structures	193.40		152.79	40.61				
266	Miscellaneous Structures—Depreciation								
267	Paving	8.40		6.64	1.76				
268	Paving—Depreciation								
269	Roadway Machines	8,568.65		6,769.23	1,799.42				
270	Roadway Machines—Depreciation								
271	Small Tools and Supplies	5,679.59		4,486.88	1,192.71				
272	Removing Snow, Ice and Sand								
273	Assessments for Public Improvements								
274	Injuries to Persons	1,501.13		1,185.89	315.24				
275	Insurance	1,429.00		1,128.91	300.09				
276	Stationery and Printing	731.81		578.13	153.68				
277	Other Expenses	324.00		255.96	68.04				
	Total of Accounts Nos. 201 to 277	380,673.34		299,833.44	80,839.90				
278	Maintaining Jt. Trks., Yds. & Other Facilities—Dr.	6,059.75		3,913.73	2,146.02				
279	Maintaining Jt. Trks., Yds. & Other Facilities—Cr.	Red (?)		Red (?)	Red (?)				
280	Equalization—Way and Structures								
	Total Maintenance of Way and Structures	Red		Red	Red				82,857.40
	II. MAINTENANCE OF EQUIPMENT								
301	Superintendence	17,237.26		13,100.32	4,136.94				
302	Shop Machinery	2,347.06		1,783.77	563.29				
303	Shop Machinery—Depreciation								

	Totals Carried Forward	19,584.32		14,884.09	4,700.23				
245	Totals Brought Forward	19,584.32		14,884.09	4,700.23				
305	Power Plant Machinery—Depreciation								
306	Power Substation Apparatus								
307	Power Substation Apparatus—Depreciation								
308	Steam Locomotives—Repairs	131,542.16		100,120.74	31,421.42				
309	Steam Locomotives—Depreciation	8,845.32		5,837.91	3,007.41				
310	Steam Locomotives—Retirements								
311	Other Locomotives—Repairs								
312	Other Locomotives—Depreciation								
313	Other Locomotives—Retirements								
314	Freight-Train Cars—Repairs	41,867.18		41,867.18					
315	Freight-Train Cars—Depreciation	34,719.71		34,719.71					
316	Freight-Train Cars—Retirements	1,782.64		1,782.64					
317	Passenger-Train Cars—Repairs	21,424.76			21,424.76				
318	Passenger-Train Cars—Depreciation	2,181.60			2,181.60				
319	Passenger-Train Cars—Retirements	1,290.48			1,290.48				
320	Motor Equipment of Cars—Repairs								
321	Motor Equipment of Cars—Depreciation								
322	Motor Equipment of Cars—Retirements								
323	Floating Equipment—Repairs								
324	Floating Equipment—Depreciation								
325	Floating Equipment—Retirements								
326	Work Equipment—Repairs	4,398.30		3,474.66	923.64				
327	Work Equipment—Depreciation	1,546.70		1,300.89	345.81				
328	Work Equipment—Retirements								
329	Miscellaneous Equipment—Repairs								
330	Miscellaneous Equipment—Depreciation	459.47		349.20	110.27				
331	Miscellaneous Equipment—Retirements	129.76		98.62	31.14				
332	Injuries to Persons	998.95		759.20	239.75				
333	Insurance	1,599.47		1,215.60	383.87				
334	Stationery and Printing	717.62		545.39	172.23				
335	Other Expenses								
	Total of Accounts Nos. 301 to 335	273,188.44		206,955.83	66,232.61				
336	Maintaining Joint Equipment—Dr								
337	Maintaining Joint Equipment—Cr								
338	Equalization—Equipment								
	Total Maintenance of Equipment	273,188.44		206,955.83	66,232.61				66,232.61
	III. TRAFFIC								
351	Superintendence	33,991.16		27,638.95	6,352.21				6,352.21
352	Outside Agencies	69,320.16		69,320.16					
353	Advertising	1,852.67		312.73	1,539.94	1,539.94			
354	Traffic Associations	2,095.64		1,889.23	206.41	206.41			
355	Fast Freight Lines								
356	Industrial and Immigration Bureaus	9,712.12		8,935.15	776.97	776.97			

* Except where specific directions for allocations are indicated, columns 5, 6, and 7 of this form are to be left blank

Railway operating expenses for the year ended December 31, 1930—Continued

Acct. no.	Railway operating expenses	Total	Not related for purpose of this inquiry	Freight service—solely to and apportioned	Passenger service—related solely to and apportioned	Passenger and miscellaneous*	Express*	Mail*	To be apportioned on car-foot mile ratios
		1	2	3	4	5	6	7	8
	III. TRAFFIC—continued								
357	Insurance	51.24		47.14	4.10	4.10			
358	Stationery and Printing	5,422.15		4,510.01	912.14				912.14
359	Other Expenses								
	Total of Accounts Nos. 351 to 359	122,445.14		112,653.37	9,791.77	2,527.42			7,264.35
	IV. TRANSPORTATION—RAIL LINE								
371	Superintendence	18,844.77		14,510.47	4,334.30				
372	Dispatching Trains	9,256.31		5,924.04	3,332.27				
373	Station Employees	121,335.86	828.78	101,009.09	19,497.99				
374	Weighing, Inspection, and Demurrage Bureaus	3,791.22		3,791.22					
375	Coal and Ore Wharves								
	Totals Carried Forward	153,228.16	828.78	125,234.82	27,164.56				
246	Totals Brought Forward	153,228.16	828.78	125,234.82	27,164.56				
376	Station Supplies and Expenses	4,711.97		3,628.22	1,083.75				
377	Yardmasters and Yard Clerks	8,625.62		7,763.06	862.56				
378	Yard Conductors and Brakemen	13,933.45		12,540.11	1,393.34				
379	Yard Switch and Signal Tenders								
380	Yard Enginemen	8,731.58		7,858.42	873.16				
381	Yard Motormen								
382	Fuel for Yard Locomotives	9,478.93		8,531.04	947.89				
383	Yard Switching Power Produced								
384	Yard Switching Power Purchased								
385	Water for Yard Locomotives	37.14		33.43	3.71				
386	Lubricants for Yard Locomotives	216.00		194.40	21.60				
387	Other Supplies for Yard Locomotives								
388	Enginehouse Expenses—Yard	166.85		150.17	16.68				
389	Yard Supplies and Expenses	320.93		288.84	32.09				
392	Train Enginemen	87,351.53		63,856.07	23,495.46				
393	Train Motormen	454.65			454.65				
394	Fuel for Train Locomotives	134,963.44		105,305.34	29,658.10				
395	Train Power Produced								
396	Train Power Purchased								
397	Water for Train Locomotives	7,742.79		6,039.38	1,703.41				

398	Lubricants for Train Locomotives	2,089.75		1,570.22	489.53					
399	Other Supplies for Train Locomotives	1,681.79		1,320.84	360.95					
400	Enginehouse Expenses—Train	22,637.81		14,800.59	7,837.22					
401	Trainmen	101,539.53		80,145.77	21,393.76					
402	Train Supplies and Expenses	9,812.16		4,634.89	5,177.27					
403	Operating Sleeping Cars									
404	Signal and Interlocker Operation	191.61		126.46	65.15					
405	Crossing Protection									
406	Drawbridge Operation	404.25		311.27	92.98					
407	Telegraph and Telephone Operation	177.24		136.47	40.77					
408	Operating Floating Equipment									
409	Express Service									
410	Stationery and Printing	6,317.60		4,864.55	1,453.05					
411	Other Expenses	1,112.63		856.73	255.90					
414	Insurance	3,029.49		2,332.71	696.78					
415	Clearing Wrecks	5,411.59		4,166.92	1,244.67					
416	Damage to Property	1,011.07		778.52	232.55					
417	Damage to Live Stock on Right-of-way	5,042.75		3,882.92	1,159.83					
418	Loss and Damage—Freight	12,089.60		12,089.60						
419	Loss and Damage—Baggage									
420	Injuries to Persons	4,299.64		3,310.72	988.92					
	Total Excluding Accounts Nos. 390, 391, 412, and 413	606,781.55	828.78	476,752.48	129,200.29					
390	Operating Joint Yards and Terminals—Dr	11,839.01	734.73	6,927.84	4,176.44					
391	Operating Joint Yards and Terminals—Cr									
412	Operating Joint Tracks and Facilities—Dr	5,507.41		1,207.76	4,299.65					
413	Operating Joint Tracks and Facilities—Cr									
	Total Transportation—Rail Line	624,127.97	1,563.51	484,888.08	137,676.38					137,676.38
	V. TRANSPORTATION—WATER LINE									
431	Operation of Vessels									
432	Operation of Terminals									
433	Incidental									
	Total Transportation—Water line									
247	VI. MISCELLANEOUS OPERATIONS									
441	Dining and Buffet Service									
442	Hotels and Restaurants	2,683.49	2,683.49							
443	Grain Elevators									
444	Stockyards									
445	Producing Power Sold									
446	Other Miscellaneous Operations									
	Total Miscellaneous Operations	2,683.49	2,683.49							

* Except where specific directions, for allocations are indicated, columns 5, 6, and 7 of this form are to be left blank.

Railway operating expenses for the year ended December 31, 1930—Continued

Acct.	Railroad operating expenses	Total	Not related for purpose of this inquiry	Freight service—solely to be apportioned	Passenger service related solely to and apportioned	Passenger and miscellaneous*	Express*	Mail*	To be apportioned on car-foot mile ratios
		1	2	3	4	5	6	7	8
	VII. GENERAL								
451	Salaries and Expenses of General Officers	19,344.60		15,282.23	4,062.37				
452	Salaries and Expenses of Clerks and Attendants	44,277.97		36,608.15	7,669.82				
453	General Office Supplies and Expenses	4,762.26		3,762.19	1,000.07				
454	Law Expenses	16,480.24		13,019.39	3,460.85				
455	Insurance	507.00		400.53	106.47				
456	Relief Department Expenses								
457	Pensions	1,505.30		1,189.19	316.11				
458	Stationery and Printing	4,314.64		3,408.57	906.07				
459	Valuation Expenses	2,933.55		2,317.50	616.05				
460	Other Expenses	727.40		574.65	152.75				
	Total of Accounts Nos. 451 to 460	94,852.96		76,562.40	18,290.56				
461	General Joint Facilities—Dr	553.03		370.30	182.73				
462	General Joint Facilities—Cr								
	Total General Expenses	95,405.99		76,932.70	18,473.29				18,473.29
	VIII. TRANSPORTATION FOR INVESTMENT—CR	Red 1,161.65		Red 1,161.65					
	Grand Total Railway Operating Expenses	1,502,810.57	4,247.00	1,183,532.12	315,031.45	2,527.42			312,504.03
	Operating Ratio (based upon Total Operating Revenues, Column 1, Form R. M. P. 50 and Grand Total Operating Expenses, Column 1, Form R. M. P. 51, page 5)	88.65							
(A)	Adjustment for Revenue Account, 111		729.59	Red 587.76	Red 141.83				Red 141.83
(B)	Adjustment for Mail Handled in Motor Cars		458.76		Red 458.76				Red 458.76
(C)	Adjustment for Revenue Accounts, 133, 142, and 143		924.70	Red 730.33	Red 194.37				Red 194.37
(D)	Adjustment for Revenue Accounts 134 and 136		1.20		Red 1.20				Red 1.20
	Grand Total After Adjustments A, B, C and D	1,502,810.57	6,361.25 5,902.49	1,182,214.03	314,235.29 314,694.95	2,527.42			311,707.87 312,166.63
(E)	Adjustment Account Maintenance, Pullman Operated Equipment in Accounts 317 to 322, inclusive, on basis of Car Foot Mile Ratios, Railroad Owned Equipment								
	Apportionment of Column 8 to Columns 5, 6, and 7, Car Foot Mile Ratios, developed in Space Study								
	Final Amounts Allocated and Apportioned								

* Except where specific directions for allocations are indicated, columns 5, 6, and 7 of this form are to be left blank

Income account for the year ended December 31, 1930

Acct. no.	Income account	Total	Not related for purpose of this inquiry	Freight service—Related solely to and apportioned	Passenger service—Related solely to and apportioned	Passenger and miscellaneous*	Express*	Mail*	To be apportioned on car-foot mile ratios
		1	2	3	4	5	6	7	8
501	Total Operating Revenues (Form 50)	1,695,270.86	19,128.03 18,669.27 6,361.25	1,560,552.73	115,590.10 116,048.86 314,235.29	64,038.66	12,463.98	39,087.46 39,546.22	
531a	Total Operating Expenses (Form 51—p. 5)	1,502,810.57	5,902.49 318.61	1,182,214.03	314,694.05 15,862.53	2,527.42			311,707.87
532	Railway Tax Accruals	75,860.96	295.86 22.75	59,679.82	15,885.28				
533	Uncollectible Railway Revenues	32.49		32.49					
	NON-OPERATING INCOME								
503	Hire of Freight Cars—Cr. Balance								
504	Rent From Locomotives	6,072.59		3,985.44	2,087.15				
505	Rent From Passenger Train Cars								
506	Rent From Floating Equipment								
507	Rent From Work Equipment	15,852.34		12,523.35	3,328.99				
508	Joint Facility Rent Income	901.78		712.41	189.37				
	Total Non-operating Income	22,826.71		17,221.20	5,605.51				
	DEDUCTIONS FROM INCOME								
536	Hire of Freight Cars—Dr. Balance	16,259.85		16,259.85					
537	Rent for Locomotives	30.00		19.69	10.31				
538	Rent for Passenger Train Cars	1,621.22			1,621.22				
539	Rent for Floating Equipment								
540	Rent for Work Equipment	286.70		226.49	60.21				
541	Joint Facility Rents	31,456.53		16,822.95	14,633.58				
	Total Deductions From Income	49,654.30		33,328.98	16,325.32				
	Net Balance—Income Items	Red 26,827.59		Red 16,107.78	Red 10,719.81				
	Total All Expenses	1,605,531.61	6,679.86 6,198.35 12,448.17	1,258,034.12	340,817.63 341,299.14 Red 225,227.53	2,527.42			338,290.21
	Net Railway Operating Income	89,739.25	12,470.92	302,518.61	Red				
	Reconciliation of Net Railway Operating Income Shown in This Return With Standard Net Railway Operating Income. Adjustments Plus or Minus in Column 1 Only.								

* Except where specific directions for allocations are indicated, columns 5, 6, and 7 of this form are to be left blank

Income account for the year ended December 31, 1931—Continued

Acct. no.	Income account	Total	Not related for purpose of this inquiry	Freight service—Related solely to and apportioned	Passenger service—Related solely to and apportioned	Passenger and miscellaneous*	Express*	Mail*	To be apportioned on car-foot mile ratios
		1	2	3	4	5	6	7	8
	STANDARD NET RAILWAY OPERATING INCOME								
	Difference in Mail Revenue	Red 278.57							
	Difference in Express Revenue	145.19							
	Difference All Other								
	Net as Shown in This Return	89,605.87							

*Except where specific directions for allocations are indicated, columns 5, 6, and 7 of this form are to be left blank.

GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN & H. W. PURVIS, RECEIVERS

249 *Operating and traffic stations for the year 1930*

SECTION I.—STATISTICS OF RAIL-LINE OPERATIONS—I. C. C., P. 508

Train miles		Total	Freight	Passenger	Special
Freight	I. C. C. 13	344, 106	344, 106		
Passenger	I. C. C. 14	239, 087		239, 087	
*Mixed	I. C. C. 15	162, 520	128. 147	34, 373	
Special	I. C. C. 16	147			147
Total	I. C. C. 17	745, 860	472, 253	273, 460	147

Locomotive miles		Total	Freight	Passenger	Special
Freight	I. C. C. 24	372, 694	372, 694		
Passenger	I. C. C. 28	229, 520		229, 520	
*Mixed	I. C. C. 32	170, 583	134, 505	36, 078	
Special	I. C. C. 36	153			153
Total		772, 950	507, 199	265, 598	153
Yd. Switching	38-39-40	(40) 49, 455	(38) 44, 270	(39) 5, 185	

Freight train car miles		Regular	Mixed	Special	Total
Loaded	I. C. C. 51-62-71	4, 323, 368	689, 405	1, 718	5, 014, 489
Empty	I. C. C. 52-63-72	2, 012, 317	335, 153		2, 347, 470
Caboose	I. C. C. 54-64-73	326, 244		147	326, 391
Work	I. C. C. 55-65-74	123, 826			123, 826
Total		6, 785, 753	1, 024, 558	1, 865	7, 812, 176

Ratio of freight car miles in mixed trains (78.85).

Passenger train car miles		Regular	Mixed	Special	Total
Pass.	I. C. C. 57-66-75	463, 062	226, 986	366	690, 414
Sleep	I. C. C. 58-67-76	58, 005		28	58, 033
Dining	I. C. C. 59-68-77				
Other	I. C. C. 60-69-78	165, 007	47, 763	56	212, 826
Total	I. C. C. 61-70-79	686, 074	274, 749	450	961, 273

Ratio of pass. car miles in mixed trains (21.15).
* Apply ratios of freight and passenger train car miles in mixed trains.
Electric locomotive miles included above (——).
Parlor car miles included above (——).

SECTION II.—FREIGHT AND PASSENGER CAR MILE RELATIONS BY CLASSES OF TRAINS

Line no.	I. C. C. item no.	Class of train	Steam and electric car miles	Ratios
	(a)	(b)	(c)	(d)
1	51-52-54	Freight Train Car Miles—Freight Trains	6, 661, 927	
2	62-64 Inc.	Freight Train Car Miles—Mixed Trains	1, 024, 558	
3	71-73 Inc.	Freight Train Car Miles—Special Trains	1, 865	
4		Total	7, 688. 350	
			686, 074	
5	57-60 Inc.	Pass. Train Car Miles—Pass. Trains	674, 414	
6	66-69 Inc.	Pass. Train Car Miles—Mixed Trains	274, 749	
7	75-78 Inc.	Pass. Train Car Miles—Special Trains	450	
			961, 273	
8		Total	949, 613	
			7, 348, 001	
9	(Line 1+5)	Total Car Miles—Freight and Pass. Trains	7, 336, 341	
10	(Line 2+6)	Total Car Miles—Mixed Trains	1, 299, 307	
11	(Line 3+7)	Total Car Miles—Special Trains	2, 315	
			8, 649, 623	
12	(Line 4+8)	Total Car Miles—All Trains	8, 637, 963	

NOTE.—Show information in Column (c) only. Column (d) to be left blank.

Operating and traffic stations for the year 1930—Continued

SECTION III.—MILEAGE STATISTICS—I. C. C., PP. 400-B AND 401

Table 411	Items	Line operated at close of calendar year 1925								
		Line owned		Line of proprietary companies	Line operated under lease	Line operated under contract	Line operated under tr. right	Total mileage operated	Line owned not operat	
		Main line	Branch line						Main line	Br li
		1	2	3	4	5	6	7	8	
D	Miles of Road	305.69	114.87	.....	37.48	.....	5.57	463.61	.....	.....
E	Miles Second Main Track	.....	.....	.....	.....	.....	.....	.....		
F	Miles Third Main Track	.....	.....	.....	.....	.....	.....	.....		None
G	Miles Fourth Main Track	.....	.....	.....	.....	.....	.....	.....		
H	Miles All Other Main Track	.....	.....	.....	.....	.....	.....	.....		
I	Miles Industrial Track	19.22	4.45	.....	.49	.....	.....	24.16	.....	.....
J	Miles Yard Tracks and Sidings	36.39	7.69	.....	3.04	.....	5.44	52.56	.....	.....
K	Total—All Tracks	361.30	127.01	.....	41.01	.....	11.01	540.33	.....	.....

SECTION IV.—PROPERTY INVESTMENT (1)

Acct. no.	(1) Total property investment should include all property used to produce revenues reported on Form R. M. P. 50	Property investment as of December 31, 1925	Accrued depreciation as of December 31, 1925	Net prope investmen of Decem 31, 192
	ROAD			
701	Road, Including Operated Leased Lines	.....	.....	.....
702	Improvements on Leased Property	24,041.17	.....	24,0
	Total Road	20,153,534.26	.....	20,153,5
	EQUIPMENT			
701	Equipment	1,583,869.29	$185,939.61	1,397,9
701	Equipment Leased Lines	.....	.....	.....
	Total Equipment	1,583,869.29	185,939.61	1,397,9
	Total Road and Equipment	21,737,403.55	185,939.61	21,551,4
708	Cash	92,902.05	.....	92,9
716	Materials and Supplies	108,467.90	.....	108,4
	Total Investment	21,938,773.50	185,939.61	21,752,8

SECTION V.—TRAFFIC DATA—I. C. C., PP. 508 AND 509

I. C. C. no.	Freight		I. C. C. no.	Passenger	
91	Number Tons Revenue Freight Carried	990,265	181	Average Miles Hauled, Revenue Freight	
92	Number Tons Non-Revenue Freight Carried	64,731	185	Average Revenue per Ton of Freight	1.
93	Total Tons All Freight Carried	1,054,996	186	Average Revenue per Ton Mile of Freight	.
94	Ton Miles Revenue Freight	92,839,637	97	Number Revenue Passengers Carried	5
95	Ton Miles Non-Revenue Freight	7,958,439	98	Number Revenue Passengers One Mile	1,97
96	Total Ton Miles All Freight	100,798,076	102	Passenger Revenue	62,9
	Total Gross Ton Miles Freight Service (Excluding Locomotive and Tender)	276,120	103	Passenger Service Train Revenue	116,7
101	Freight Revenue	1,544,807.79	139	Revenue Passenger Miles per Train Mile	
135	Ton Miles Revenue Freight per Train Mile	196.49	141	Passenger Service Train Revenue per Train Mile	
136	Ton Miles All Freight per Train Mile	213.33	184	Average Miles Carried, Revenue Passenger	
140	Freight Revenue per Train Mile	3.27	187	Average Revenue per Passenger	1.
			188	Average Revenue per Passenger Mile	.

From the total property investment shown in Section IV, of Form RMP 53, the following items should be separately stated:

1. The total investment in main or branch line tracks, buildings, and all other facilities operated for freight service only	$3,509,143.34
2. The total investment in road, including buildings and all other facilities of subsidiary railroads operated for freight service only	None
3. The total investment in industry tracks and facilities	218,194.28
4. The total investment in properties, the operating expenses of which are included in the following accounts:	
443—Grain Elevators	None
444—Stock Yards	None
5. The total investment in road not in use, but carried on books of owning road	None
6. The total investment in road abandoned, but not yet written off books	530,498.06
7. The total investment in real estate held for railroad purposes and not yet used	None
8. The total investment in coal, water, or other companies, the product of which is used in operation of the road and charged into the operating expenses	None
9. The total investment in the following specific items, taken from your annual report or from other sources (Specific items, if any, to be stated)	None

INSTRUCTIONS

The total amount of investment in the properties described above should be furnished in every instance where the information is available from the books or other records of the carrier. The inability to furnish data for one or more of the items does not mean that information cannot be furnished for other items. The returns should be as full and complete as possible.

One copy of the form should be sent to Mr. Jennings C. Wise, Special Assistant to the Attorney General, Room 207, Post Office Department Building, Washington, D. C.

Investment in equipment as of December 31, 1925

[NOTE.—Columns 6 to 8, inclusive, to be left blank]

	Equipment (designated under I. C. C. Classification, with selected sub-classes)	Total number owned	Total value reported to I. C. C.	Not related	Value of equipment assigned to freight service	Value of equipment assigned to passenger service	Value of equipment assigned to—		
							Passenger	Express	Mail
		1	2	3	4	5	6	7	8
51	Steam Locomotives (Including Tenders):								
	1. Locomotives used in Freight Service or Passenger Service, exclusively	17	$193,732.27		$141,923.04	$51,809.23			
	2. Locomotives used in Freight, Passenger, Mixed, Special and Switching Services	15	101,474.58		81,100.39	20,374.19			
	3. All Other Locomotives								
	Total for Steam Locomotives	32	295,206.85		223,023.43	72,183.42			
52	Other Locomotives:								
	1. Electric Locomotives								
	(a) Locomotives used in Freight Service or Passenger Service, exclusively								
	(b) Locomotives used in Freight, Passenger, Mixed, Special and Switching Services								
	(c) All Other Locomotives								
	Total for Electric Locomotives								
	2. All Other Locomotives								
53	Freight Train Cars (Total of all classes)	6321	1,157,651.13		1,157,651.13				
54	Passenger Train Cars:								
	1. Coaches, Parlor, Sleeping, Dining, Observation, and other exclusive passenger	14	41,842.83			41,842.83			
	2. Refrigerator Express cars for express exclusively	1	225.00			225.00			
	3. Railway Post Office cars for mail exclusively								
	4. Mail Storage cars for mail exclusively								
	5. Milk cars for milk exclusively								
	6. All Other head and cars without apartments								
	7. All Combination and Apartment Cars	12	30,865.85			30,865.85			
55	Motor Equipment of Cars:								
	1. In Freight Service or Passenger Service, exclusively								
	2. All Other								
	Total for Motor Equipment of Cars								
56	Floating Equipment:								

	2. In Ferry or Water Transfer Service									
	(a) In Freight Service or Passenger Service, exclusively									
	(b) All Other									
	Total for Floating Equipment									
57	Work Equipment (Total of All Classes)	53	56,372.63		44,534.38	11,838.25				
58	Miscellaneous Equipment	3	1,705.00		1,295.80	409.20				
	Total Investment in Equipment		1,583,869.29		1,426,504.74	157,364.55				

Date reported, December 31, 1931.

252 GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN & H. W. PURVIS, RECEIVERS

Working sheet to be used for developing ratios for application to certain accounts in the preparation of financial forms R. M. P. 50 to 52—1930

IMPORTANT.—All percentages to be carried out two places beyond the decimal, and data carefully prepared and verified. Errors in compilation will necessitate changes through all forms]

BASE 1.—To determine Ratios for apportioning remainder of Account 407 after elimination of expenses applicable to Revenue Account 138—Telegraph and Telephone:

Account	Total*	Freight	Passenger
407	$177.24 (100.00%)	$136.47 (77.00%)	$40.77 (23.00%)

* Excluding Not Related, if any.

BASE 2.—To determine Ratios for apportionment of Expenses applicable to *Net Credit* of Revenue Accounts 151 and 152, Joint Facility (Restatement of Account 390):

Account	Total*	Freight	Passenger
278	$6,059.75	$3,913.73	$2,146.02
336			
390	11,839.01	7,320.77	4,518.24
412	5,507.41	1,207.76	4,299.65
461	553.03	370.30	182.73
Total	$23,959.20 (100.00%)	$12,812.56 (53.48%)	$11,146.64 (46.52%)

*Excluding Not Related, if any.

BASE 3.—To determine Ratios for apportionment of Expenses applicable to *Net Debit* of Revenue Accounts 151 and 152, Joint Facility (Restatement of Account 391):

Account	Total*	Freight	Passenger
279	$611.90	$483.38	$128.52
337			
391			
413			
462			
Total	$611.90 (100.00%)	$483.38 (79.00%)	$128.52 (21.00%)

* Excluding Not Related, if any.

BASE 4.—Adjustment "A" to determine Ratios for apportionment of Expenses applicable to Revenue Account 111—Special Service Train From Section I, Form R. M. P. 53:

	Total	Freight	Passenger
Car Miles			
Special Service	2,315	1,865	450
Trains	(100.00%)	(80.56%)	(19.44%)

BASE 5.—Adjustment "B" to determine Ratios for apportionment of Expenses applicable to Revenue Accounts 113, 114, 115, and 116—Water Transfers:

Account	Total*	Freight	Passenger
323			
324			
325		None	
408			
Total	(100.00%)	(%)	(%)

*Excluding Not Related, if any.

Working sheet to be used for developing ratios for application to certain accounts in the preparation of financial forms R. M. P. 50 to 52—1930—Continued

BASE 6.—Adjustment "C" To determine Ratios for apportionment of Expenses applicable to Revenue Accounts 133, 142, and 143. Total Operating Expenses—Columns 3 and 4, Form R. M. P. 51, p. 5:

Account	Total*	Freight	Passenger
531	$1,408,563.57 (100.00%)	$1,183,532.12 (78.98%)	$315,031.45 (21.02%)

*Excluding Not Related, Column 2.

BASE 7.—Adjustment "D" Expenses based upon operating ratio Revenue Accounts 134 and 136. Credited wholly to columns 4 and 8.

BASE 8.—Maintenance Charges—Passenger Equipment:

Account	Column 4, Page 3, Form R. M. P. 51
317	$21,424.76
318	2,181.60
319	1,290.48
320	
321	
322	
Total	$24,896.84

Show entries for accounts only. Data to be used in Statistician's Office.

BASE 9.—To determine ratios for apportionment of Railway Tax Accruals Account 532. Total Operating Expenses—Columns 1, 2, 3, and 4, Form R. M. P. 52:

Account	Total	Not Related	Freight	Passenger
531	$1,502,810.57 (100.00%)	$5,902.49 (00.39%)	$1,182,214.03 (78.67%)	$314,694.05 (20.94%)

BASE 10.—To determine Ratios for apportionment of unallocated Rent from Locomotives—Account 504:

	Total*	Freight	Passenger
Locomotive Miles	772,797 (100.00%)	507,199 (65.63%)	265,598 (34.37%)

*From Section I Form R. M. P. 53, excluding Special.

ACCOUNT 506.—Rent from Floating Equipment Use ratios developed in Base 5. None.

BASE 11.—To determine Ratios for apportionment of Account 507—Rent from Work Equipment:

Account	Total*	Freight	Passenger
326	$4,398.30	$3,474.66	$923.64
327	1,646.70	1,300.89	345.81
328			
Total	$6,045.00 (100.00%)	$4,775.55 (79.00%)	$1,269.45 (21.00%)

*Excluding Not Related, if any.

ACCOUNT 508.—Joint Facility Rent Income, Use ratios developed in Base 3.
ACCOUNT 537.—Rent for Locomotives, Use ratios developed in Base 10.
ACCOUNT 539.—Rent for Floating Equipment, Use ratios developed in Base 5.
ACCOUNT 540.—Rent for Work Equipment, Use ratios developed in Base 11.
ACCOUNT 541.—Joint Facility Rents, Use ratios developed in Base 2.

NOTE.—Read instructions carefully and address all inquiries concerning the preparation of data to L. E. Wettling, Statistician, Committee on Railway Mail Pay, 416 Chicago Union Station, Chicago, Illinois, with copy to Hon. Joseph Stewart, Special Assistant to the Attorney General, Room 207, Post Office Department Building, Washington, D. C.

One typewritten copy of working sheet should accompany completed financial forms transmitted to the Post Office Department and one copy to accompany those transmitted to Statistician.

253 *Exhibit No. 735, eleven pages, follows*

254 GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN & H. W. PURVIS, RECEIVERS

Railway operating revenues for the year ended December 31, 1925

Acct. no.	Class of railway operating revenues	Amount of revenue for the year	Not related for purpose of this inquiry	Assignable to freight service	Assignable to passenger service	Passenger and miscellaneous	Express	Mail
		1	2	3	4	5	6	7
101	Freight	1,452,232.07		1,454,232.07				
102	Passenger	110,240.29			110,240.29	110,240.29		
103	Excess Baggage	995.75			995.75	995.75		
104	Sleeping Car							
105	Parlor and Chair Car							
106	Mail	40,904.26			40,904.26			40,904.26
106-A	Side and Terminal Service	813.64	813.64					
107	Express	21,681.32			21,681.32		21,681.32	
108	Other Passenger-Train	16.92			16.92	16.92		
109	Milk	36.34			36.34	36.34		
110	Switching	7,900.13		7,900.13				
111	Special Service Train	1,238.00	1,238.00					
112	Other Freight Train							
113	Water Transfers—Freight							
114	Water Transfers—Passenger							
115	Water Transfers—Vehicles and Live Stock							
116	Water Transfers—Other							
	Total Rail-line Transportation Revenue	1,638,058.72	2,051.64	1,462,132.20	173,874.88	111,289.30	21,681.32	40,904.26
121	Freight							
122	Passenger							
123	Excess Baggage							
124	Other Passenger Service							
125	Mail							
126	Express							
127	Special Service							
128	Other							
	Total Water-line Transportation Revenue							
131	Dining and Buffet							
132	Hotel and Restaurant	15,781.01	15,781.01					
133	Station, Train and Boat Privileges	35.48	35.48					
134	Parcel Room							
135	Storage—Freight	3,225.47		3,225.47				
136	Storage—Baggage	5.00	5.00					
137	Demurrage	5,478.32		5,478.32				
138	Telegraph and Telephone							
139	Grain Elevator							
140	Stockyard							
141	Power							
142	Rents of Buildings and Other Property	746.00	746.00					
143	Miscellaneous	827.42	827.42					
	Total Incidental Operating Revenue	26,098.70	17,394.91	8,703.79				
151	Joint Facility—Cr	1,001.64	1,001.64					
152	Joint Facility—Dr							
	Total Joint Facility Operating Revenue	1,001.64	1,001.64					
	Total railway Operating Revenues	1,665,159.06	20,448.19	1,470,835.99	173,874.88	111,289.30	21,681.32	40,904.26

Railway operating expenses for the year ended December 31, 1929

Acct. no.	Railway operating expenses	Total	Not related for purpose of this inquiry	Freight service—Related solely to and apportioned	Passenger service—Related solely to and apportioned	Passenger and miscellaneous *	Express *	Mail *	To be apportioned on car foot mile ratios
		1	2	3	4	5	6	7	8
	I. MAINTENANCE OF WAY AND STRUCTURES								
201	Superintendence	26,032.66		19,003.84	7,028.82				
202	Roadway Maintenance—Yard	387.50		348.75	38.75				
	Roadway Maintenance—Other	33,700.14		24,601.10	9,099.04				
203	Roadway Depreciation—Yard								
	Roadway Depreciation—Other								
204	Underground Power Tubes—Yard								
	Underground Power Tubes—Other								
205	Underground Power Tubes—Depreciation—Yard								
	Underground Power Tubes—Depreciation—Other								
206	Tunnels and Subways—Yard								
	Tunnels and Subways—Other								
207	Tunnels and Subways—Depreciation—Yard								
	Tunnels and Subways—Depreciation—Other								
208	Bridges, Trestles and Culverts—Yard								
	Bridges, Trestles and Culverts—Other	60.23		54.21	6.02				
209	Bridges, Trestles and Culverts—Depreciation—Yard	31,583.24		23,055.77	8,527.47				
	Bridges, Trestles and Culverts—Depreciation—Other								
210	Elevated Structures—Yard								
	Elevated Structures—Other								
211	Elevated Structures—Depreciation—Yard								
	Elevated Structures—Depreciation—Other								
212	Ties—Yard	1,602.11		1,441.90	160.21				
	Ties—Other	70,788.45		51,675.57	19,112.88				
213	Ties—Depreciation—Yard								
	Ties—Depreciation—Other								
214	Rails—Yard	37.50		33.75	3.75				
	Rails—Other	232.10		169.43	62.67				
215	Rails—Depreciation—Yard								
	Rails—Depreciation—Other								
216	Other Track Material—Yard	117.80		106.02	11.78				
	Other Track Material—Other	5,917.98		4,320.13	1,597.85				

* Except where specific directions for allocations are indicated, columns 5, 6, and 7 of this form are to be left blank.

Railway operating expenses for the year ended December 31, 1929—Continued

Acct. no.	Railway operating expenses	Total	Not related for purpose of this inquiry	Freight service—Related solely to and apportioned	Passenger service—Related solely to and apportioned	Passenger and miscellaneous	Express	Mail	To be apportioned on car foot mile ratios
		1	2	3	4	5	6	7	8
217	Other Track Material—Depreciation—Yard								
	Other Track Material—Depreciation—Other								
218	Ballast—Yard								
	Ballast—Other								
219	Ballast—Depreciation—Yard								
	Ballast—Depreciation—Other								
220	Track Laying and Surfacing—Yard	3,326.37		2,993.73	332.64				
	Track Laying and Surfacing—Other	99,954.61		72,966.87	26,987.74				
221	Right-of-Way Fences—Yard								
	Right-of-Way Fences—Other	366.28		267.38	98.90				
222	Right-of-Way Fences—Depreciation—Yard								
	Right-of-Way Fences—Depreciation—Other								
223	Snow and Sand Fences and Snowsheds—Yard								
	Snow and Sand Fences and Snowsheds—Other								
224	Snow & Sand Fences & Snowsheds—Depreciation—Yard								
	Snow & Sand Fences & Snowsheds—Depreciation—Other								
225	Crossings and Signs—Yard								
	Crossings and Signs—Other	1,827.45		1,334.04	493.41				
226	Crossings and Signs—Depreciation—Yard								
	Crossings and Signs—Depreciation—Other								
227	Station and Office Buildings	5,606.18		4,092.51	1,513.67				
228	Station and Office Buildings—Depreciation								
229	Roadway Buildings	1,091.76		796.98	294.78				
230	Roadway Buildings—Depreciation								
231	Water Stations	2,534.52		1,900.89	633.63				
232	Water Stations—Depreciation								
	Totals Carried Forward	285,166.88		209,162.87	76,004.01				
256	Totals Brought Forward	285,166.88		209,162.87	76,004.01				
233	Fuel Stations	1,308.60		981.45	327.15				
234	Fuel Stations—Depreciation								
235	Shops and Enginehouses	779.73		545.81	233.92				
236	Shops and Enginehouses—Depreciation								
237	Grain Elevators								
238	Grain Elevators—Depreciation								
239	Storage Warehouses								
240	Storage Warehouses—Depreciation								
241	Wharves and Docks								
242	Wharves and Docks—Depreciation								

243	Coal and Ore Wharves									
244	Coal and Ore Wharves—Depreciation									
245	Gas Producing Plants									
246	Gas Producing Plants—Depreciation									
247	Telegraph and Telephone Lines	6,950.05		5,073.54	1,876.51					
248	Telegraph and Telephone Lines—Depreciation									
249	Signals and Interlockers	50.97		30.58	20.39					
250	Signals and Interlockers—Depreciation									
251	Power Plant Dams, Canals and Pipe Lines									
252	Power Plant Dams, Canals and Pipe Lines—Depreciation									
253	Power Plant Buildings									
254	Power Plant Buildings—Depreciation									
255	Power Substation Buildings									
256	Power Substation Buildings—Depreciation									
257	Power Transmission Systems									
258	Power Transmission Systems—Depreciation									
259	Power Distribution Systems									
260	Power Distribution Systems—Depreciation									
261	Power Line Poles and Fixtures									
262	Power Line Poles and Fixtures—Depreciation									
263	Underground Conduits									
264	Underground Conduits—Depreciation									
265	Miscellaneous Structures	119.22		87.03	32.19					
266	Miscellaneous Structures—Depreciation									
267	Paving									
268	Paving—Depreciation									
269	Roadway Machines	5,900.60		4,307.44	1,593.16					
270	Roadway Machines—Depreciation									
271	Small Tools and Supplies	6,191.51		4,519.80	1,671.71					
272	Removing Snow, Ice, and Sand									
273	Assessments for Public Improvements									
274	Injuries to Persons	2,377.05		1,735.25	641.80					
275	Insurance	1,363.44		995.31	368.13					
276	Stationery and Printing	958.69		699.84	258.85					
277	Other Expenses									
	Total of Accounts Nos. 201 to 277	311,166.74		228,138.92	83,027.82					
278	Maintaining Jt. Trks., Yds. & Other Facilities—Dr	6,305.87		3,750.99	2,554.88					
279	Maintaining Jt. Trks., Yds. & Other Facilities—Cr	Red	Red	Red						
280	Equalization—Way and Structures									
	Total Maintenance of Way and Structures	316,879.55		231,456.98	85,422.57					85,422.57
	II. MAINTENANCE OF EQUIPMENT									
301	Superintendence	17,442.31		12,907.31	4,535.00					
302	Shop Machinery	1,457.00		1,019.90	437.10					
303	Shop Machinery—Depreciation									
304	Power Plant Machinery									
	Totals Carried Forward	18,899.31		13,927.21	4,972.10					

Railway operating expenses for the year ended December 31, 1929—Continued

Acct. no.	Railway operating expenses	Total	Not related for purpose of this inquiry	Freight service—Related solely to and apportioned	Passenger service—Related solely to and apportioned	Passenger and miscellaneous	Express	Mail	To be apportioned on car foot mile ratios
		1	2	3	4	5	6	7	8
287	II. MAINTENANCE OF EQUIPMENT—continued Totals Brought Forward	18,899.31		13,927.21	4,972.10				
305	Power Plant Machinery—Depreciation								
306	Power Substation Apparatus								
307	Power Substation Apparatus—Depreciation								
308	Steam Locomotives—Repairs	132,179.61		95,783.48	36,396.13				
309	Steam Locomotives—Depreciation	8,845.32		6,368.63	2,476.69				
310	Steam Locomotives—Retirements								
311	Other Locomotives—Repairs								
312	Other Locomotives—Depreciation								
313	Other Locomotives—Retirements								
314	Freight-Train Cars—Repairs	37,683.50		37,683.50					
315	Freight-Train Cars—Depreciation	34,711.56		34,711.56					
316	Freight-Train Cars—Retirements	562.62		562.62					
317	Passenger-Train Cars—Repairs	20,386.42			20,386.42				
318	Passenger-Train Cars—Depreciation	2,191.68			2,191.68				
319	Passenger-Train Cars—Retirements								
320	Motor Equipment of Cars—Repairs								
321	Motor Equipment of Cars—Depreciation								
322	Motor Equipment of Cars—Retirements								
323	Floating Equipment—Repairs								
324	Floating Equipment—Depreciation								
325	Floating Equipment—Retirements								
326	Work Equipment—Repairs	2,970.09		2,168.17	801.92				
327	Work Equipment—Depreciation	1,558.32		1,137.57	420.75				
328	Work Equipment—Retirements								
329	Miscellaneous Equipment—Repairs								
330	Miscellaneous Equipment—Depreciation	258.54		191.32	67.22				
331	Miscellaneous Equipment—Retirements								
332	Injuries to Persons	866.99		641.57	225.42				
333	Insurance	1,855.55		1,373.11	482.44				
334	Stationery and Printing	1,147.88		849.43	298.45				
335	Other Expenses								
	Total of Accounts Nos. 301 to 335	264,117.39		195,398.17	68,719.22				

336	Maintaining Joint Equipment—Dr.								
337	Maintaining Joint Equipment—Cr.								
338	Equalization—Equipment								
	Total Maintenance of Equipment	264, 117. 39		195, 398. 17	68, 719. 22				68, 719. 22
	III. TRAFFIC								
351	Superintendence	36, 642. 72		29, 402. 73	7, 239. 99				7, 239. 99
352	Outside Agencies	53, 662. 13		53, 282. 42	379. 71	379. 71			
353	Advertising	2, 971. 50		863. 11	2, 108. 39	2, 108. 39			
354	Traffic Associations	2, 925. 16		2, 573. 14	352. 02	352. 02			
355	Fast Freight Lines								
356	Industrial and Immigration Bureaus	11, 054. 82		9, 949. 34	1, 105. 48	1, 105. 48			
357	Insurance	71. 49		64. 34	7. 15	7. 15			
358	Stationery and Printing	8, 805. 03		7, 963. 34	841. 69				841. 69
359	Other Expenses								
	Total of Accounts Nos. 351 to 359	116, 132. 85		104, 098. 42	12, 034. 43	3, 952. 75			8, 081. 68
	IV. TRANSPORTATION—RAIL LINE								
371	Superintendence	20, 389. 27		15, 088. 06	5, 301. 21				
372	Dispatching Trains	10, 283. 38		5, 450. 19	4, 833. 19				
373	Station Employees	130, 620. 32	813. 64	105, 418. 63	24, 388. 05				
374	Weighing, Inspection and Demurrage Bureaus	3, 715. 08		3, 715. 08					
375	Coal and Ore Wharves								
	Totals Carried Forward	165, 008. 05	813. 64	129, 671. 96	34, 522. 45				
256									
	Totals Brought Forward	165, 008. 05	813. 64	129, 671. 96	34, 522. 45				
376	Station Supplies and Expenses	5, 892. 10		4, 360. 15	1, 531. 95				
377	Yardmasters and Yard Clerks	8, 598. 46		7, 738. 61	859. 85				
378	Yard Conductors and Brakemen	13, 099. 36		11, 789. 42	1, 309. 94				
379	Yard Switch and Signal Tenders								
380	Yard Enginemen	8, 274. 07		7, 446. 66	827. 41				
381	Yard Motormen								
382	Fuel for Yard Locomotives	9, 591. 25		8, 632. 13	959. 12				
383	Yard Switching Power Produced								
384	Yard Switching Power Purchased								
385	Water for Yard Locomotives	472. 85		425. 56	47. 29				
386	Lubricants for Yard Locomotives	200. 05		180. 04	20. 01				
387	Other Supplies for Yard Locomotives								
388	Enginehouse Expenses—Yard	132. 57		119. 31	13. 26				
389	Yard Supplies and Expenses	337. 47		303. 72	33. 75				
392	Train Enginemen	94, 333. 53		60, 369. 34	33, 964. 19				
393	Train Motormen								
394	Fuel for Train Locomotives	142, 906. 52		104, 996. 78	37, 909. 74				
395	Train Power Produced								
396	Train Power Purchased								

Railway operating expenses for the year ended December 31, 1929—Continued

Acct. no.	Railway operating expenses	Total	Not related for purpose of this inquiry	Freight service related solely to and apportioned	Passenger service related solely to and apportioned	Passenger and miscellaneous	Express	Mail	To be apportioned on car foot mile ratios
		1	2	3	4	5	6	7	8
	IV. TRANSPORTATION—RAIL LINE—continued								
397	Water for Train Locomotives	10,290.80		7,512.28	2,778.52				
398	Lubricants for Train Locomotives	2,369.22		1,722.17	647.05				
399	Other Supplies for Train Locomotives	2,005.15		1,392.30	612.85				
400	Enginehouse Expenses—Train	24,925.19		17,906.27	7,018.92				
401	Trainmen	111,783.49		79,758.76	32,024.73				
402	Train Supplies and Expenses	12,108.51		6,081.13	6,027.38				
403	Operating Sleeping Cars								
404	Signal and Interlocker Operation	193.01		115.81	77.20				
405	Crossing Protection								
406	Drawbridge Operation	395.49		292.66	102.83				
407	Telegraph and Telephone Operation	177.24		131.16	46.08				
408	Operating Floating Equipment								
409	Express Service								
410	Stationery and Printing	7,556.26		5,591.63	1,964.63				
411	Other Expenses	1,328.85		983.35	345.50				
414	Insurance	3,507.35		2,595.44	911.91				
415	Clearing Wrecks	8,262.14		6,113.98	2,148.16				
416	Damage to Property	3,070.41		2,272.10	798.31				
417	Damage to Live Stock on Right-of-Way	9,921.51		7,341.92	2,579.59				
418	Loss and Damage—Freight	11,815.96		11,815.96					
419	Loss and Damage—Baggage	52.00			52.00				
420	Injuries to Persons	6,251.80		4,626.33	1,625.47				
	Total Excluding Accounts Nos. 390, 391, 412, and 413	664,860.66	813.64	492,286.93	171,760.09				
390	Operating Joint Yards and Terminals—Dr	10,567.60	885.26	4,926.87	4,755.47				
391	Operating Joint Yards and Terminals—Cr								
412	Operating Joint Tracks and Facilities—Dr	5,901.72		1,466.10	4,435.62				
413	Operating Joint Tracks and Facilities—Cr								
	Total Transportation—Rail Line	681,329.98	1,698.90	498,679.90	180,951.18				180,951.18
	V. TRANSPORATION—WATER LINE								
431	Operation of Vessels								
432	Operation of Terminals								
433	Incidental								
	Total Transportation—Water Line								

259									
	VI. MISCELLANEOUS OPERATIONS								
441	Dining and Buffet Service								
442	Hotels and Restaurants	2, 675. 24	2, 675. 24						
443	Grain Elevators								
444	Stockyards								
445	Producing Power Sold								
446	Other Miscellaneous Operations								
	Total Miscellaneous Operations	2, 675. 24	2, 675. 24						
	VII. GENERAL								
451	Salaries and Expenses of General Officers	19, 951. 77		14, 963. 83	4, 987. 94				
452	Salaries and Expenses of Clerks and Attendants	46, 057. 62		36, 017. 07	10, 040. 55				
453	General Office Supplies and Expenses	4, 806. 49		3, 604. 87	1, 201. 62				
454	Law Expenses	14, 716. 66		11, 037. 50	3, 679. 16				
455	Insurance	364. 92		273. 69	91. 23				
456	Relief Department Expenses								
457	Pensions	531. 00		398. 25	132. 75				
458	Stationery and Printing	5, 865. 79		4, 399. 34	1, 466. 45				
459	Valuation Expenses	6, 014. 92		4, 511. 19	1, 503. 73				
460	Other Expenses	3, 320. 13		2, 490. 10	830. 03				
	Total of Accounts Nos. 451 to 460	101, 629. 30		77, 695. 84	23, 933. 46				
461	General Joint Facilities—Dr	835. 64		517. 76	317. 88				
462	General Joint Facilities—Cr								
	Total General Expenses	102, 464. 94		78, 213. 60	24, 251. 34				24, 251. 34
	VIII. TRANSPORTATION FOR INVESTMENT—CR	Red 11, 895. 07		Red 11, 895. 07					
	Grand Total Railway Operating Expenses	1, 471, 704. 88	4, 374. 14	1, 095, 952. 00	371, 378. 74	3, 952. 75			367, 425. 99
	Operating Ratio (Based upon Total Operating Revenues, Column 1, Form R. M. P. 50 and Grand Total Operating Expenses, Column 1, Form R. M. P. 51, page 5)	88. 38							
(A)	Adjustment for Revenue Account, 111		1, 094. 14	Red 820. 60	Red 273. 54				
(B)	Adjustment for Revenue Accounts, 113, 114, 115, and 116								
(C)	Adjustment for Revenue Accounts 133, 142, and 143		1, 422. 02	Red 1, 062. 11	Red 359. 91				
(D)	Adjustment for Revenue Accounts, 134 and 136		4. 42		Red 4. 42				
	Grand Total After Adjustments A, B, C, and D	1, 471, 704. 88	6, 894. 72	1, 094, 069. 29	370, 740. 87	3, 952. 75			366, 788. 12
(E)	Adjustment Account Maintenance, Pullman Operated Equipment in Accounts 317 to 322, inclusive, on basis of Car Foot Mile Ratios, Railroad Owned Equipment								
	Apportionment of Column 8 to Columns 5, 6, and 7, Car Foot Mile Ratios, developed in Space Study								
	Final Amounts Allocated and Apportioned								

Income account for the year ended December 31, 1929

Acct. no.	Income account	Total	Not related for purpose of this inquiry	Freight service—Related solely to and apportioned	Passenger service—Related solely to and apportioned	Passenger and miscellaneous*	Express*	Mail*	To be apportioned on car foot mile ratios
		1	2	3	4	5	6	7	8
501	Total Operating Revenues (Form 50)	1,665,159.06	20,448.19	1,470,835.99	173,874.88	111,289.30	21,681.32	40,904.26	
531	Total Operating Expenses (Form 51—p. 5)	1,471,704.88	6,894.72	1,094,069.29	370,740.87	3,952.75			366,788.12
532	Railway Tax Accruals	112,807.75	530.20	83,861.28	28,416.27				
533	Uncollectible Railway Revenues	140.05		140.05					
	NON-OPERATING INCOME								
503	Hire of Freight Cars—Cr. Balance	1,246.67		1,246.67					
504	Rent from Locomotives	29,732.92		16,112.27	13,620.65				
505	Rent from Passenger Train Cars								
506	Rent from Floating Equipment								
507	Rent from Work Equipment	23,246.50		16,969.95	6,276.55				
508	Joint Facility Rent Income	803.50		586.56	216.94				
	Total non-operating income	55,020.59		34,915.45	20,114.14				
	DEDUCTIONS FROM INCOME								
536	Hire of Freight Cars—Dr. Balance								
537	Rent for Locomotives								
538	Rent for Passenger Train Cars	5,130.42			5,130.42				
539	Rent for Floating Equipment								
540	Rent for Work Equipment								
541	Joint Facility Rents	22,971.29		10,775.83	12,195.46				
	Total Deductions from Income	28,101.71		10,775.83	17,325.88				
	Net Balance—Income Items	26,927.88		24,139.62	2,788.26				
	Total All Expenses	1,557,724.80	7,424.92	1,153,931.00	396,368.88	3,952.75			392,416.13
	Net Railway Operating Income	107,434.26	13,023.27	316,904.99	Red 222,494.00				
	Reconciliation of Net Railway Operating Income shown in this return with Standard Net Railway Operating Income. Adjustments plus or minus in Column 1 only.								
	Standard Net Railway Operating Income								

Difference in Mail Revenue	7,156.15							
Different in Express Revenue	1,281.24							
Difference All Other								
Net as shown in this return	115,871.65							

*Except where specific directions for allocations are indicated, columns 5, 6, and 7 of this form are to be left blank.

261 GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN & H. W. PURVIS, RECEIVERS

Operating and traffic statistics for the year 1929

SECTION I.—STATISTICS OF RAIL-LINE OPERATIONS—I. C. C. P. 508

Train miles		Total	Freight	Passenger	Special
Freight	I. C. C. 13	316,053	316,053		
Passenger	I. C. C. 14	347,495		347,495	
Mixed*	I. C. C. 15	128,280	100,110	28,170	
Special	I. C. C. 16	144			144
Total	I. C. C. 17	791,972	416,163	375,665	144

Locomotive miles		Total	Freight	Passenger	Special
Freight	I. C. C. 24	344,534	344,534		
Passenger	I. C. C. 28	350,812		350,812	
Mixed*	I. C. C. 32	135,282	105,574	29,708	
Special	I. C. C. 36	150			150
Total		830,778	450,108	380,520	150
Yd. Switching	38-39-40	(40) 43,863	(38) 39,287	(39) 4,576	

Freight train car miles		Regular	Mixed	Special	Total
Loaded	I. C. C. 51-62-71	4,254,099	602,642	2,016	4,858,757
Empty	I. C. C. 52-63-72	1,626,864	215,883		1,842,747
Caboose	I. C. C. 54-64-73	295,336		144	295,480
Work	I. C. C. 55-65-74	120,512			120,512
Total		6,296,811	818,525	2,160	7,117,496

Ratio of Freight Car Miles in Mixed Trains (78.04).

Passenger train car miles		Regular	Mixed	Special	Total
Pass	I. C. C. 57-66-75	665,864	138,297	720	804,881
Sleep	I. C. C. 58-67-76	148,736			148,736
Dining	I. C. C. 59-68-77				
Other	I. C. C. 60-69-78	117,269	92,055		209,324
Total	I. C. C. 61-70-79	931,869	230,352	720	1,162,941

Ratio of Pass. Car Miles in Mixed Trains (21.99).
*Apply ratios of Freight and Passenger Train Car Miles in Mixed Trains.
Electric Locomotive miles included above (——).
Motor Car Miles included above (——).

Operating and traffic statistics for the year 1929—Continued

SECTION II.—FREIGHT AND PASSENGER CAR MILE RELATIONS BY CLASSES OF TRAINS

Line no.	I. C. C. item no.	Class of train	Steam and electric car miles	Ratios
	(a)	(b)	(c)	(d)
1	51–52–54	Freight Train Car Miles—Freight Trains	6,176,299	
2	62–64 Inc.	Freight Train Car Miles—Mixed Trains	818,525	
3	71–73 Inc.	Freight Train Car Miles—Special Trains	2,160	
4		Total	6,996,984	
5	57–60 Inc.	Pass. Train Car Miles—Pass. Trains	931,869	
6	66–69 Inc.	Pass. Train Car Miles—Mixed Trains	230,352	
7	75–78 Inc.	Pass. Train Car Miles—Special Trains	720	
8		Total	1,162,941	
9	(Line 1+5)	Total Car Miles—Freight and Pass. Trains	7,108,168	
10	(Line 2+6)	Total Car Miles—Mixed Trains	1,048,877	
11	(Line 3+7)	Total Car Miles—Special Trains	2,880	
12	(Line 4+8)	Total Car Miles—All Trains	8,159,925	

NOTE.—Show information in Column (c) only. Column (d) to be left blank.

SECTION III.—MILEAGE STATISTICS—I. C. C., PP. 400-B AND 401

Table 411	Items	Line operated at close of calendar year 1925								
		Line owned		Line of proprietary companies	Line operated under lease	Line operated under contract	Line operated under tr. right	Total mileage operated	Line owned but not operated	
		Main line	Branch line						Main line	Branch line
		1	2	3	4	5	6	7	8	9
D.	Miles of Road	306.30	151.88		37.48		6.27	501.93		
E.	Miles Second Main Track									
F.	Miles Third Main Track									
G.	Miles Fourth Main Track								None	None.
H.	Miles All Other Main Track									
I.	Miles Industrial Track	18.93	4.02		.18			23.13		
J.	Miles Yard Tracks and Sidings	35.98	10.23		3.07		15.66	64.94		
K.	Total—All Tracks	361.21	166.13		40.73		21.93	590.00		

Operating and traffic statistics for the year 1929—Continued

SECTION IV.—PROPERTY INVESTMENT (1)

Acct. no.	(1) Total Property Investment should include all property used to produce revenues reported on Form R. M.-P. 50	Property investment as of December 31, 1929	Accrued depreciation as of December 31, 1929	Net property investment as of December 31, 1929
	ROAD			
701	Road, including Operated Leased Lines	$19,995,146.72		$19,995,146.72
702	Improvements on Leased Property	15,698.04		15,698.04
	Total Road	20,010,844.76		20,010,844.76
	EQUIPMENT			
701	Equipment	1,578,910.67	$138,948.46	1,439,962.21
701	Equipment Leased Lines			
	Total Equipment	1,578,910.67	138,948.46	1,439,962.21
	Total Road and Equipment	21,589,755.43	138,948.46	21,450,806.97
708	Cash	22,455.94		22,455.94
716	Materials and Supplies	103,891.11		103,891.11
	Total Investment	21,716,102.48	138,948.46	21,577,154.02

SECTION V.—TRAFFIC DATA—I. C. C., PP. 508 AND 509

I. C. C. no.	Freight		I. C. C. no.	Passenger	
91	Number Tons Revenue Freight Carried	862,166	97	Number Revenue Passengers Carried	87,247
92	Number Tons Non-Revenue Freight Carried	68,049	98	Number Revenue Passengers One Mile	3,782,332
93	Total Tons All Freight Carried	930,215	102	Passenger Revenue	110,240.29
94	Ton Miles Revenue Freight	81,696,942	103	Passenger Service Train Revenue	183,125.97
95	Ton Miles Non-Revenue Freight	7,605,549	139	Revenue Passenger Miles per Train Mile	10.07
96	Total Ton Miles All Freight	89,302,491	141	Passenger Service Train Revenue per Train Mile	.49
	Total Gross Ton Miles Freight Service (Excluding Locomotive and Tender)	250,895	184	Average Miles Carried, Revenue Passenger	43.35
101	Freight Revenue	1,454,232.07	187	Average Revenue per Passenger	1.26354
135	Ton Miles Revenue Freight per Train Mile	196.33	188	Average Revenue per Passenger Mile	.02915
136	Ton Miles All Freight per Train Mile	214.61			
140	Freight Revenue per Train Mile	3.49			
181	Average Miles Hauled, Revenue Freight	94.76			
185	Average Revenue per Ton of Freight	1.68671			
186	Average Revenue per Ton Mile of Freight	.01780			

From the total property investment shown in Section IV, of Form RMP 53, the following items should be separately stated:

1. The total investment in main or branch line tracks, buildings, and all other facilities operated for freight service only	$3,409,417.52
2. The total investment in road, including buildings and all other facilities of subsidiary railroads operated for freight service only	None
3. The total investment in industry tracks and facilities	208,892.12
4. The total investment in properties, the operating expenses of which are included in the following accounts:	
443—Grain Elevators	None
444—Stock Yards	None
5. The total investment in road not in use, but carried on books of owning road	None
6. The total investment in road abandoned, but not yet written off books	58,550.92
7. The total investment in real estate held for railroad purposes and not yet used	None
8. The total investment in coal, water, or other companies, the product of which is used in operation of the road and charged into the operating expenses	None
9. The total investment in the following specific items, taken from your annual report or from other sources (Specific items, if any, to be stated)	None

INSTRUCTIONS

The total amount of investment in the properties described above should be furnished in every instance where the information is available from the books or other records of the carrier. The inability to furnish data for one or more of the items does not mean that information cannot be furnished for other items. The returns should be as full and complete as possible.

One copy of the form should be sent to Mr. Jennings C. Wise, Special Assistant to the Attorney General, Room 207, Post Office Department Building, Washington, D. C.

Investment in equipment as of December 31, 1929

[NOTE.—Columns 6 to 8, inclusive, to be left blank]

	Equipment (designated under I. C. C. Classification, with selected subclasses)	Total number owned	Total value reported to I. C. C.	Not related	Value of equipment assigned to freight service	Value of equipment assigned to passenger service	Value of equipment assigned to—		
							Passenger	Express	Mail
		1	2	3	4	5	6	7	8
51	Steam Locomotives (Including Tenders):								
	1. Locomotives used in Freight Service or Passenger Service, exclusively	17	$193,369.53		$141,560.30	$51,809.23			
	2. Locomotives used in Freight, Passenger, Mixed, Special, and Switching Services	15	101,474.58		81,100.39	20,374.19			
	3. All Other Locomotives								
	Total for Steam Locomotives	32	294,844.11		222,660.69	72,183.42			
52	Other Locomotives:								
	1. Electric Locomotives:								
	(a) Locomotives used in Freight Service or Passenger Service, exclusively								
	(b) Locomotives used in Freight, Passenger, Mixed, Special, and Switching Services								
	(c) All Other Locomotives								
	Total for Electric Locomotives								
	2. All Other Locomotives								
53	Freight Train Cars (Total of all classes)	635	1,157,768.75		1,157,768.75				
54	Passenger Train Cars:								
	1. Coaches, Parlor, Sleeping, Dining, Observation, and other exclusive passenger	15	43,437.82			43.43			
	2. Refrigerator Express cars for express exclusively								
	3. Railway Post Office cars for mail exclusively								
	4. Mail Storage cars for mail exclusively								
	5. Milk cars for milk exclusively								
	6. All Other head end cars without apartments								
	7. All Combination and Apartment Cars	14	29,628.09			29,628.09			
55	Motor Equipment of Cars:								
	1. In Freight Service or Passenger Service, exclusively								
	2. All Other								
	Total for Motor Equipment of Cars								

56	Floating Equipment:								
	1. In "Water-Line Transportation" Service								
	2. In Ferry or "Water Transfer" Service								
	(a) In Freight Service or Passenger Service, exclusively								
	(b) All Other								
	Total for Floating Equipment								
57	Work Equipment (Total of All Classes)	49	51,941.27		37,917.13	14,024.14			
58	Miscellaneous Equipment	3	1,290.63		955.07	335.56			
	Total Investment in Equipment		1,578,910.67		1,419,301.64	159,609.03			

Date Reported, December 31, 1931.

264 GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN & H. W. PURVIS, RECEIVERS

Working sheet to be used for developing ratios for application to certain accounts in the preparation of financial forms R. M. P. 50 to 52—1929

[Important.—All percentages to be carried out two places beyond the decimal, and data carefully prepared and verified. Errors in compilation will necessitate changes through all forms]

BASE 1.—To determine Ratios for apportioning remainder of Account 407 after elimination of expenses applicable to Revenue Account 138—Telegraph and Telephone:

Account	Total*	Freight	Passenger
407	$177.24 (100.00%)	131.16 (74.00%)	46.08 (26.00%)

*Excluding Not Related, if any.

BASE 2.—To determine Ratios for apportionment of Expenses applicable to *Net Credit* of Revenue Accounts 151 and 152, Joint Facility (Restatement of Account 390):

Account	Total*	Freight	Passenger
278	$8,305.87	$3,750.99	$2,554.88
336			
390	10,567.60	5,342.15	5,225.45
412	5,901.72	1,466.10	4,435.62
461	835.64	517.76	317.88
Total	23,610.83 (100.00%)	11,077.00 (46.92%)	12,533.83 (53.09%)

*Excluding Not Related, if any.

BASE 3.—To determine Ratios for apportionment of Expenses applicable to *Net Debit* of Revenue Accounts 151 and 152, Joint Facility (Restatement of Account 391):

Account	Total*	Freight	Passenger
279			
337			
391			
413			
462			
Total	(100.00%)	(%)	(%)

*Excluding Not Related, if any.

BASE 4.—Adjustment "A" To determine Ratios for apportionment of Expenses applicable to Revenue Account 111—Special Service Train. From Section I Form R. M. P. 53:

	Total	Freight	Passenger
Car Miles			
Special Service			
Trains	(100.00%)	(%)	(%)

BASE 5.—Adjustment "B" To determine Ratios for apportionment of Expenses applicable to Revenue Accounts 113, 144, 115, and 116—Water Transfers:

Account	Total*	Freight	Passenger
323			
324		None	
325			
408			
Total	(100.00%)	(%)	(%)

*Excluding Not Related, if any.

Working sheet to be used for developing ratios for application to certain accounts in the preparation of financial forms R. M. P. 50 to 52—1929—Con.

BASE 6.—Adjustment "C" To determine Ratios for apportionment of Expenses applicable to Revenue Accounts 133, 142, and 143. Total Operating Expenses—Columns 3 and 4, Form R. M. P. 51, p. 5:

Account	Total*	Freight	Passenger
531	$1,467,330.74 (100.00%)	$1,095,952.00 (74.69%)	$371,378.74 (25.31%)

*Excluding Not Related, Column 2.

BASE 7.—Adjustment "D" Expenses based upon operating ratio Revenue Accounts 134 and 136. Credited wholly to columns 4 and 8:

BASE 8.—Maintenance Charges—Passenger Equipment:

Account	Column 4, Page 3, Form R. M. P. 51.
317	$20,386.42
318	2,191.68
319	
320	
321	
322	
Total	22,578.10

Show entries for accounts only. Data to be used in Statistician's Office.

BASE 9.—To determine ratios for apportionment of Railway Tax Accruals, Account 532. Total Operating Expenses—Columns 1, 2, 3, and 4, Form R. M. P. 52:

Account	Total	Not Related	Freight	Passenger
531	$1,471,704.88 (100.00%)	$6,894.72 (00.47%)	$1,094,089.29 (74.34%)	$370,740.87 (25.19%)

BASE 10.—To determine Ratios for apportionment of unallocated Rent from Locomotives—Account 504:

	Total*	Freight	Passenger
Locomotives Miles	830,628 (100.00%)	450,108 (54.19%)	380,520 (45.81%)

*From Section I Form R. M. P. 53, excluding Special.

ACCOUNT 506.—Rent from Floating Equipment. Use ratios developed in Base 5. None.

BASE 11.—To determine Ratios for apportionment of Account 507—Rent from Work Equipment:

Account	Total*	Freight	Passenger
326	$2,970.09	$2,168.17	$801.92
327	1,558.32	1,137.57	420.75
328			
Total	4,528.41 (100.00%)	3,305.74 (73.00%)	1,222.67 (27.00%)

*Excluding Not Related, if any.

ACCOUNT 508.—Joint Facility Rent Income. Use ratios developed in Base 3.
ACCOUNT 537.—Rent for Locomotives. Use ratios developed in Base 10.
ACCOUNT 539.—Rent for Floating Equipment. Use ratios developed in Base 5.
ACCOUNT 540.—Rent for Work Equipment. Use ratios developed in Base 11.
ACCOUNT 541.—Joint Facility Rents. Use ratios developed in Base 2.

NOTE.—Read instructions carefully and address all inquiries concerning the preparation of data to L. E. Wettling, Statistician, Committee on Railway Mail Pay, 416 Chicago Union Station, Chicago, Illinois, with copy to Hon. Joseph Stewart, Special Assistant to the Attorney General, Room 207, Post Office Department Building, Washington, D. C.

One typewritten copy of working sheet should accompany completed financial forms transmitted to the Post Office Department and one copy to accompany those transmitted to Statistician.

265 *Exhibit No. 736, general instructions for preparation of financial statistics, prepared by the Postoffice Department,* is as follows

266 Post Office Department, Special Assistant to the Attorney General, Washington, D. C.

RAILWAY MAIL PAY (I. C. C. DOCKET 9200) GENERAL INSTRUCTIONS FOR PREPARATION OF FINANCIAL STATISTICS

267 POST OFFICE DEPARTMENT,
SPECIAL ASSISTANT TO THE ATTORNEY GENERAL,
Washington, May 15, 1926.

To all railroads concerned:

In order that data desired for use in submitting the matters to the Interstate Commerce Commission may be secured, the following instructions have been prepared for reporting the financial data called for on Forms R. M. P. Nos. 50, 51, 52, 53, and 54, inclosed herewith.

The accompanying Forms R. M. P. Nos. 50, 51, 52, 53, and 54 and the instructions relating thereto have been prepared in cooperation and understanding in conferences between the Bureau of Statistics, Interstate Commerce Commission; the committee on railway mail pay; the American Short Line Railroad Association, and the Post Office Department, in order to procure financial data in connection with passenger train operations obtained on other forms.

All carriers concerned are requested to exercise the greatest care in reporting the information which these forms and instructions call for in order to avoid correspondence and delays and expedite the pending case, Docket 9200.

These forms and instructions are being distributed by the Post Office Department through understanding with the parties heretofore mentioned. Requests for further information and additional forms will receive prompt attention.

Two sets of reports, original and one duplicate, should be sent to the Post Office Department, office of the Special Assistant to the Attorney General, room 207, Post Office Department Building, Washington, D. C., at the earliest possible date.

One set of reports should be sent to Mr. L. E. Wettling, statistician, committee on railway mail pay, 416 Chicago Union Station Building, Chicago, Ill., by the railroads represented by the committee on railway mail pay.

One set of reports should be sent to the American Short Line Railroad Association, 1319 F Street NW., Washington, D. C., by the railroads represented by this association.

(Signed) JOSEPH STEWART,
Special Assistant to the Attorney General.

For the POSTMASTER GENERAL.

268 General Instructions for the Preparation of R. M. P. Financial Statistics, Interstate Commerce Commission Docket 9200

Instructions for reporting railway operating revenues, railway operating expenses, railway operating income account, operating and traffic statistics, and investment in road and equipment on Forms R. M. P. 50 to 54, inclusive, by all carriers concerned.

SPECIAL NOTE.—The following instructions are for roads using annual report Form A. Instructions for small roads using annual report Form C are set forth, commencing on page 10.

FORM R. M. P. 50.—REVENUES

The items to be reported on this form, columns 1, 2, 3, and 4, should agree with those reported in Table 310, railway operating revenues, page 302 of Interstate Commerce Commission annual report, Form A. Column (b) of annual report becomes column 1, column (e) becomes column 2, column (c) becomes column 3, and column (d) becomes column 4, with the following exceptions:

Account 106.—Mail.

The amount to be entered opposite this account in column 1 shall be the mail pay actually earned without giving consideration to fines for the rail transportation of the mails during the year 1925. The amount to be reported will be furnished by the Post Office Department.

Account 106-A.—Side and terminal service.

Enter in column 1 the compensation received for side and terminal service. The amount to be reported will be furnished by the Post Office Department. (See directions for assignment of expenses applicable to this service, account 373.)

Account 107.—Express.

The amount to be entered opposite this account in column 1 shall be the express revenue actually earned for the rail transportation of the express during the year 1925. The committee on railway mail pay and the American Short Line Railroad Association will obtain the earned express revenue for the railroads they represent. The Post Office Department will furnish this information to all other railroads not so represented.

Assignments to Column 2

Enter in column 2 amounts found in column 1 for accounts 106-A, 111, 113, 114, 115, 116, 121, 122, 123, 124, 125, 126, 127, 128, 132, 133, 134, 136, 138, 141, 142, 143, 151, and 152.

Assignments to Column 3

Enter in column 3 amounts found in column 1 for accounts 101, 110, 112, 135, 137, 139, and 140.

269 Assignments to Column 4

Enter in column 4 amounts found in column 1 for accounts 102, 103, 104, 105, 106, 107, 108, 109, and 131.

Assignments to Column 5

Enter in column 5 amounts found in column 4 for accounts 102, 103, 104, 105, 108, 109, and 131.

Assignments to Column 6

Enter in column 6 amount found in column 4 for account 107.

Assignments to Column 7

Enter in column 7 amount found in column 4 for account 106.

FORM R. M. P. 51—OPERATING EXPENSES

The assignments to columns 1, 2, 3, and 4 in this form should be those reported by the carrier to the Interstate Commerce Commission in Table 320, page 304 of annual report. In this form, column (b) of Interstate Commerce Commission annual report Form A becomes column 1, column (g) becomes column 2, columns (c) and (e) become column 3, and columns (d) and (f) become column 4. (See exceptions.)

Class II roads reporting operating expenses on page 310 of annual report Form A are requested, for the purpose of this report, to make the assignments and apportionments of expenses as between freight and passenger services in a manner similar to that followed by the Class I roads, using the "Rules Governing the Separation of Operating Expenses between Freight and Passenger Services, Issue of 1920" as a guide.

I. Maintenance of Way and Structures

Enter in columns 1, 2, 3, and 4 actual amounts as reported in annual returns to the Interstate Commerce Commission.

Enter total maintenance of way and structures expenses column 4 in column 8.

II. Maintenance of Equipment

Enter in columns 1, 2, 3, and 4 actual amounts as reported in annual returns to the Interstate Commerce Commission.

Enter total maintenance of equipment expenses column 4 in column 8.

III. Traffic

Enter in columns 1, 2, 3, and 4, actual amounts as reported in annual returns to the Interstate Commerce Commission.

Enter in column 5 the amounts of accounts 352, 353, 354, 356, and 357 as shown in column 4.

Remaining expense in column 4 to be entered in column 8.

IV. Transportation—Rail Line

Enter in columns 1, 2, 3, and 4 actual amounts as reported in annual returns to the Interstate Commerce Commission, with the following exceptions:

Exception 1.—Account 373—station employees and expenses. An amount equal to subaccount 106-A, side and terminal service, if credited during the year to account 106, should be entered in column 2, and a similar amount deducted from the passenger proportion of this account.

Should the compensation for side and terminal service have been previously credited to account 373, the amount of account 106-A should be entered in column 2, and the total charge of this
270 account column 1, be increased in like sum, and no changes made in freight and passenger assignments, columns 3 and 4.

Exception 2.—Account 407—telegraph and telephone operations. To the amount of revenue account 138—telegraph and telephone, apply operating ratio of total operating revenues and expenses, and enter the result in column 2, account 407, apportioning the remainder upon basis of freight and passenger items, columns 3 and 4, before adjustment.

Exemption 3.—Account 390—operating joint tracks and terminals—Dr. To amount of net credit of revenue accounts 151 and 152 apply operating ratio of total operating revenues and expenses, and enter the result in column 2, account 390. Apportion this result upon basis of aggregate of freight and passenger items, columns 3 and 4 of accounts 278, 336, 390, 412, and 461, and deduct respective amounts from freight and passenger items in columns 3 and 4, account 390.

NOTE.—Where revenue accounts 151 and 152 show a net debit, this amount should be shown in column 2, account 391. Apportion upon the basis of the aggregate of freight and passenger items in columns 3 and 4, of accounts 279, 337, 391, 413, and 462, and deduct respective amounts from freight and passenger items found in columns 3 and 4, account 391.

Enter total transportation rail-line expenses, column 4 in column 8.

V. Transportation—Water Line

Enter amount in column 1, in column 2.

VI. Miscellaneous Operations.

Account 441.—Dining and buffet.

Enter amount in column 1, in columns 4 and 5.

Account 442.—Hotels and restaurants.

Enter amount in column 1, in column 2.

Account 443.—Grain elevators.

Enter amount in column 1, in column 3.

Account 444.—Stockyards.

Enter amount in column 1, in column 3.

Account 445.—Producing power sold.

Enter amount in column 1, in column 2.

Account 446—Other miscellaneous operations.

Enter amount in column 1, in column 2.

VII. General.

Enter in columns 1, 2, 3, and 4 actual amounts as reported in annual returns to the Interstate Commerce Commission.

Enter total general expenses, column 4 in column 8.

VIII. Transportation for Investment—Cr.

Enter in columns 1, 2, 3, and 4 actual amount as reported in annual returns to the Interstate Commerce Commission.

Enter total transportation for investment—credit, column 4 in column 8.

Data having been entered in accordance with the foregoing instructions, totals should be shown for columns 1, 2, 3, 4, 5, and 8, and adjustments made in accordance with the following directions.

271 Special Adjustments for Eliminating Expenses of Nontrain Revenues

(A) Account 111.—Special service train.

To revenue account 111, apply operating ratio of total operating revenues and expenses, and enter the result in column 2, and show as credit items in freight and passenger, columns 3 and 4, in the relation that freight and passenger car miles in special service trains bear to the total car miles in such trains.

Enter amount of credit, column 4 in column 8.

(B) Account 113, 114, 115, and 116.—Water transfers, revenue.

To the aggregate of the above-named accounts, apply operating ratio of total operating revenues and expenses, and enter the result in column 2, and show as credit items in freight and passenger columns 3 and 4 in the relation of total charges to freight and passenger in accounts 323, 324, 325, and 408.

Enter amount of credit, column 4 in column 8.

(C) Account 133.—Station, train, and boat privileges.
Account 142.—Rents of buildings and other property.
Account 143.—Miscellaneous.

To the aggregate of the accounts named above apply operating ratio of total operating revenues and expenses and enter the result, less amount of account 446—other miscellaneous operations, in column 2, and show as credit items in freight and passenger, columns 3 and 4, in the relation of total freight and passenger operating expenses, Form 51, page 5, columns 3 and 4.

Enter amount of credit, column 4, in column 8.

(D) Account 134.—Parcel room.
Account 136.—Storage—Baggage.

To the aggregate of the accounts named above, apply operating ratio of total operating revenues and expenses, and enter the result in column 2, and show as a credit in columns 4 and 8.

After above adjustments have been made, show totals for columns 1, 2, 3, 4, 5, and 8 on line, "Grand total after adjustments A, B, C, and D."

Special notes

1. At this point on Form R. M. P. 51, page 5, the carriers whose forms will be completed by the statistical bureau Western Lines, Chicago, Ill., and the American Short Line Railroad Association, Washington, D. C., shall follow the rules stated below, viz:

(E) Do not make any entries.

Do not make any entries on line indicating apportionment of column 8 to columns 5, 6, and 7.

On line showing final amounts allocated and apportioned, enter totals in columns 1, 2, 3, and 4 found in same columns of line, "Grand total after adjustments A, B, C, and D." Make no entries in columns 5, 6, and 7.

2. Carriers not represented by either of the two above-named railway organizations will individually complete the adjustment (E) and the apportionment of column 8 upon space ratios to be developed by themselves in accordance with the following directions, however, no adjustments of column (E) or apportionments of column 8 to columns 5, 6, and 7 are to be made by individual carriers on the two sets of forms to be sent to the Post Office Department.

Since these carriers incur no expense in connection with maintenance of Pullman-operated equipment, space ratios should be developed for passenger, mail, and express which exclude the
272 car-foot miles of space in Pullman-operated cars. The ratios are to be applied to maintenance charges which shall be the aggregate of accounts 317, 318, 319, 320, 321, and 322 in column 4.

The aggregate of these charges should be entered in column 8 and apportionments made in columns 5, 6, and 7 upon the space ratios determined, excluding Pullman-operated equipment. The amount thus treated in column 8 should be deducted from total amount of

this column indicated "Grand total after adjustment A to D", leaving a remainder to which is applied the space ratios of all operations ascertained in the space study and apportionments shown in columns 5, 6, and 7.

These directions do not apply to those roads which operate their own sleeping cars exclusively. In such cases, the railroad owned and operated sleeping-car equipment will be treated as are other coaches or other railroad-owned cars, no special ascertainment being necessary.

In cases where a road's sleeping-car operations are conducted in part with its own equipment, and in part with Pullman-owned equipment, the above instructions will apply only to that part of the operations conducted by the Pullman company with Pullman-owned equipment.

FORM R. M. P. 52.—INCOME ACCOUNT

Account 501.—Total operating revenues.

Enter in columns 1, 2, 3, 4, 5, 6, and 7 the total amounts shown in same columns, Form R. M. P. 50.

Account 531.—Total operating expenses.

Enter in columns 1, 2, 3, and 4 the total amounts after adjustments A, B, C, and D, as shown in same columns, Form R. M. P. 51, page 5. Columns 5, 6, and 7 to be left blank.

Account 532.—Railway tax accruals.

Enter total amount in column 1 and apportion to columns 2, 3, and 4, upon ratios of amounts found in same columns, account 531, total operating expenses. Columns 5, 6, and 7 to be left blank.

Account 533.—Uncollectible railway revenues.

Enter total amount in column 1 and allocate direct to freight, column 3.

Nonoperating Income (Columns 1, 2, 3, and 4)

503. Hire of freight cars—Cr. balance.

Allocate to freight.

504. Rent from locomotives.

Allocate where possible and apportion remainder upon relation of locomotive miles in freight and passenger service, including mixed as separated between freight and passenger.

505. Rent from passenger-train cars.

Allocate to passenger.

506. Rent from floating equipment.

Apportion to freight and passenger on relation of aggregate of amounts assigned to freight and passenger in accounts 323, 324, 325, and 408.

507. Rent from work equipment.

Apportion to freight and passenger on relation of total freight and passenger, accounts 326, 327, and 328.

508. Joint facility rent income.

Apportion to freight and passenger on relation of the aggregate of amounts in freight and passenger columns of accounts 279, 337, 391, 413, and 462 before adjustment.

273 Deductions from Income (Columns 1, 2, 3, and 4)

536. Hire of freight cars—Dr. balance.

Allocate to freight.

537. Rent for locomotives.

Allocate where possible and apportion the remainder upon relation of locomotive miles in freight and passenger service, including mixed as separated between freight and passenger.

538. Rent for passenger-train cars.

Allocate to passenger.

539. Rent for floating equipment.

Follow directions for account 506.

540. Rent for work equipment.

Follow directions for account 507.

541. Joint-facility rents.

Apportion to freight and passenger on the relation of the aggregate of amounts in freight and passenger columns of accounts 278, 336, 390, 412, and 461 before adjustment.

Net balance, income items.—Enter net balance of income items in columns 1, 3, and 4, leaving columns 5, 6, and 7 blank.

Total all expenses.—Show grand totals, all expenses, columns 1, 2, 3, and 4.

Net railway operating income.—Deduction of total all expenses from total operating revenues, columns 1, 2, 3, and 4.

The reconciliation shown at bottom of this form should be completed by the carrier in each instance.

FORM R. M. P. 53.—TRAFFIC STATISTICS

Train miles, locomotive miles, car miles.—Sections I and II.

To facilitate tabulation, the above data reported to the Interstate Commerce Commission has been rearranged in tables providing for the same information in a different order.

Mileage statistics.—Section III.

Enter data as found on page 400-b and 401 of carriers' annual report.

Property investment.—Section IV.

Enter data as provided for in the table.

Traffic data.—Section V.

All items except "Gross ton miles in freight service" indicated below as "special" are to be found in annual reports.

SPECIAL.—Gross ton miles in freight section: Gross ton miles excluding locomotives and tender. Enter data reported on O. S. Form A, line 9, for year 1925.

FORM R. M. P. 54.—EQUIPMENT INVESTMENT

The amount to be shown in column 2 opposite each item is the value before depreciation as stated in the carriers' annual report to the Interstate Commerce Commission.

Columns 6, 7, and 8 are to be left blank.

In addition to the above general directions, the following instructions are given with reference to the various items shown on the form.

Account No. 51.—Steam locomotives.

Subclass 1.—Assign to column 4, freight, the value of steam locomotives whose total mileage for the year ended December 31, 1925, was performed in freight service exclusively.

274 Assign to column 5, passenger, the value of steam locomotives whose total mileage for the year ended December 31, 1925, was performed in passenger service exclusively.

Show total amount in column 2.

Subclass 2.—Where locomotives are used interchangeably or in any service involving the handling of both freight and passenger equipment the value shall be apportioned between freight and passenger on the basis of mileage performed for each of these services by classes or types of locomotives during the year ended December 31, 1925. To obtain the ratios for this apportionment all steam locomotives whose mileage records indicate inclusion in subclass 2 shall first be grouped by types or classes. Taking each type or class of locomotive separately reference should then be made to the mileage records maintained for each individual locomotive and obtain for the year 1925 the total number of miles performed in the services classified as follows:

1. Freight.
2. Passenger.
3. Mixed train service.
4. Special train service.
5. Switching service.

Having obtained this information for all locomotives of a given type or class it will be seen that the total mileages opposite classification 1 (freight) and 2 (passenger) assign themselves and it is now necessary to separate to freight and passenger the mileages

shown opposite classification 3 (mixed train service), 4 (special train service) and 5 (switching service). This will be done as follows:

3. Mixed train service.—Total mileage shown under this classification shall be apportioned between freight and passenger on the basis of ratios derived from the relation between mixed train car miles shown on page 508 of annual report using items 62 to 64, inclusive, for freight and items 66 to 69, inclusive, for passenger.

When division of the mileage has been made on above basis the freight proportion should be added to 1, freight, and the passenger proportion to 2, passenger.

4. Special train service.—Total mileage shown under this classification shall be apportioned between freight and passenger on the basis of ratios derived from the relation betwen special train car miles shown on page 508 of annual report using items 71 to 73, inclusive, for freight and items 75 to 78, inclusive, for passenger.

When division of the mileage has been made on above basis the freight proportion should be added to 1, freight, and the passenger proportion to 2, passenger.

5. Switching service.—Total mileage shown under this classification shall be apportioned between freight and passenger on the basis of ratios derived from the relation between freight and passenger yard switching locomotive miles shown on page 508 of the annual report, items 38 and 39.

When division of the mileage has been made on above basis the freight proportion should be added to 1, freight, and the passenger proportion to 2, passenger.

The above computations having been made the total mileage performed by all locomotives of a given type or class has now been apportioned between 1, freight, and 2, passenger. The next step will be to obtain the percentages that each of these groups of mileages are to their total and apply the percentages so found to the
275 total value of locomotives of the group. This will result in a division of the value between freight and passenger based on miles of service performed.

The above processes should be repeated until the value of all locomotives of all types or classes included in subclass 2 of account 51 has been apportioned between freight and passenger when the total shall be entered in column 2 on the form; the freight proportion in column 4 and the passenger proportion in column 5.

Subclass 3.—The value of locomotives shown in column 2 opposite this subclass shall be apportioned to freight and passenger on the basis of the separations in column 4 (freight) and column 5 (passenger) previously made for subclasses 1 and 2, taken together.

Account No. 52.—Other locomotives.

Subclass 1 (a).—Assign to column 4, freight, the value of electric locomotives whose total mileage for the year ended December 31, 1925, was performed in freight service exclusively.

Assign to column 5, passenger, the value of electric locomotives whose total mileage for the year ended December 31, 1925, was performed in passenger service exclusively.

Show total amount in column 2.

Subclass 1 (b).—Follow general directions outlined under subclass 2 for steam locomotives substituting electric car and locomotive miles for the steam mileages.

Subclass 1 (c).—The value of the locomotives shown in column 2 opposite this subclass shall be apportioned to column 4 (freight) and column 5 (passenger) on the relation of separations made for subclasses 1 (a) and 1 (b) taken together.

Subclass 2.—The value of the locomotives shown in column 2 opposite this subclass shall be apportioned to column 4 (freight) and column 5 (passenger) on the relation of the aggregate of total amounts for all locomotives (both steam and electric) as found in columns 3 and 4.

Account No. 53.—Freight-train cars.

The value of all freight train cars shall be shown in column 2 opposite this account and allocated direct to column 4, freight.

Account No. 54.—Passenger-train cars.

Shown in column 2 in accordance with the subclasses as shown the value of passenger train cars owned and allocate in each instance the amounts so shown to column 5, passenger.

SPECIAL.—Careful investigation of available records should be made in order that correct classification of equipment will be made in subclasses 4 to 7, inclusive.

Account No. 55.—Motor equipment of cars.

Subclass 1.—Assign to column 4, freight, the value of all motor equipment of cars, including the wiring for such electric equipment, used in exclusive freight service for the year ended December 31, 1925.

Assign to column 5, passenger, the value of all motor equipment of cars, including the wiring of such electric equipment, used in exclusive passenger service for the year ended December 31, 1925.

Subclass 2.—The value of the motor equipment including the wiring for such electric equipment of all cars used interchangeably in freight and passenger services, as shown in column 2 opposite this subclass shall be apportioned to column 4 (freight) and column
276 5 (passenger) on relation of the aggregate of amounts assigned to freight and passenger of accounts 320, 321, and 322.

Account No. 56.—Floating equipment.

Subclass 1.—The value of floating equipment operated in water line transportation service shall be shown in column 2 opposite this subclass and allocated direct to column 3 as not related to this inquiry.

Subclass 2 (a).—Assign to column 4, freight, the value of all floating equipment used in ferry or water transfer service for freight service exclusively.

Assign to column 5, passenger, the value of all floating equipment used in ferry or water transfer service for passenger service exclusively.

Subclass 2 (b).—The value of floating equipment used in ferry or water transfer service and used interchangeably in freight and passenger services should be shown in column 2 opposite this subclass and apportioned to column 4 (freight) and column 5 (passenger) on relation of the aggregate of amounts assigned to freight and passenger of accounts 323, 324, 325, and 408.

Account No. 57.—Work equipment.

The value of work equipment shown in column 2 opposite this account shall be apportioned to column 4 (freight) and column 5 (passenger) on relation of the aggregate of amounts assigned to freight and passenger of accounts 326, 327, and 328.

Account No. 58.—Miscellaneous equipment.

The value of miscellaneous equipment shown in column 2 opposite this account shall be apportioned to column 4 (freight) and column 5 (passenger) on relation of the aggregate of amounts assigned to freight and passenger of accounts 329, 330, and 331.

The total investment in equipment, column 2, should equal total investment in equipment before depreciation as shown in Annual Report to the Interstate Commerce Commission for the year ended December 31, 1925.

277 General Instructions for the Preparation of R. M. P. Financial Statistics by Carriers Using Annual Report Form C

FORM R. M. P. 50—REVENUES

The items to be reported on this form, columns 1, 2, 3, and 4, should agree with those reported on page 12, table 1201, of the Interstate Commerce Commission annual report, Form C, with the following exceptions:

Account 106.—Mail.

The amount to be entered opposite this account in column 1 shall be the mail pay actually earned, without giving consideration to fines, for the rail transportation of the mails during the year 1925. The amount to be reported will be furnished by the Post Office Department.

Account 106-A.—Side and terminal service.

Enter in column 1 the compensation received for side and terminal service. The amount to be reported will be furnished by the Post Office Department. (See directions for assignment of expense applicable to this service, account 2242.)

Account 107.—Express.

The amount to be entered opposite this account in column 1 shall be the express revenue actually earned for the rail transportation of the express during the year 1925. The committee on railway mail pay and the American Short Line Railroad Association will obtain the earned express revenue for the railroads they represent. The Post Office Department will furnish this information to all other railroads not so represented.

Assignments to Column 2

Enter in column 2 amounts found in column 1 for account 106–A, 111, 113, 114, 115, 116, 121, 122, 123, 124, 125, 126, 127, 128, 132, 133, 134, 136, 138, 141, 142, 143, 151, and 152.

Assignments to Column 3

Enter in column 3 amounts found in column 1 for accounts 101, 110, 112, 135, 137, 139, and 140.

Assignments to Column 4

Enter in column 4 amounts found in column 1 for accounts 102, 103, 104, 105, 106, 107, 108, 109, and 131.

Assignments to Column 5

Enter in column 5 amounts found in column 4 for accounts 102, 103, 104, 105, 108, 109, and 131.

Assignments to Column 6

Enter in column 6 amount found in column 4 for account 107.

Assignments to Column 7

Enter in column 7 amounts found in column 4 for account 106.

278 FORM R. M. P. 51.—OPERATING EXPENSES

The assignments to column 1 opposite each account number in this form should be those reported by the carrier on page 12, Table 1202, of Interstate Commerce Commission annual report, Form C.

Separation of Operating Expenses Between Freight and Passenger Services

A thorough examination of the operating expense accounts should be made and wherever possible the carrier is expected to make direct allocations of expense to either freight (column 3) or passenger (column 4) opposite the accounts as shown on this form. After all direct

allocations have been made the remaining expense in the several groups will be apportioned between freight (column 3) and passenger (column 4) in accordance with the ratios developed by the freight and passenger locomotive miles and freight and passenger car miles as shown on page 18, Table 1801, of the Interstate Commerce Commission annual report, Form C. The method of obtaining ratios is as follows:

The freight proportion shall include the amounts shown opposite Items 8, 19, 21, 22, and 23.

The passenger proportion shall include the amounts shown opposite Items 9, 20, and 24.

The percentage that each of the two groups of items are of the total will be the freight and passenger ratios.

I. Maintenance of Way and Structures

The total in column 1 for this class of expense after direct allocations, if any, shall be apportioned to freight (column 3) and passenger (column 4) upon general ratios as developed.

Enter total maintenance of way and structures expenses, column 4 in column 8.

II. Maintenance of Equipment

The total in column 1 for this class of expense after direct allocations, if any, shall be apportioned to freight (column 3) and passenger (column 4) upon general ratios as developed.

Enter total maintenance of equipment expenses column 4 in column 8.

III. Traffic

The total in column 1 for this class of expenses after direct allocations, if any, shall be apportioned to freight (column 3) and passenger (column 4) upon general ratios as developed.

Enter total traffic expense, column 4 in column 5.

IV. Transportation—Rail Line

The total in column 1 for this class of expense after direct allocations, if any, shall be apportioned to freight (column 3) and passenger (column 4) upon general ratios as developed, with the following exceptions:

Exception 1.—Account 2242—station service. An amount equal to revenue subaccount 106–A—side and terminal service, if credited during the year to account 106 should be entered in column 2 and a similar amount deducted from the passenger portion (column 4) of this account.

Should the compensation for side and terminal service have been previously credited to account 2242, the amount of subaccount 106–A should be entered in column 2, and the total charge of this account, column 1, be increased in like sum and no charge made in freight and passenger apportionments, columns 3 and 4.

279 Exception 2. Account 2254, other rail transportation expenses. To the amount of revenue account 138, telegraph and telephone, apply operating ratio as shown on page 2, Form 51, and enter the results in column 2, account 2254, apportioning the remainder to freight (column 3) and passenger (column 4) upon general ratios as developed.

Exception 3.—Account 2246, operating joint tracks and terminals—Dr. To amount of net credit of revenue accounts 151 and 152, apply operating ratio as shown on page 2, Form 51, and enter results in column 2, account 2246, apportioning the remainder to freight (column 3) and passenger (column 4) upon general ratios as developed.

NOTE.—Where revenue accounts 151 and 152 show a net debit, this amount should be shown in column 2, account 2247. Apportion remainder to freight (column 3) and passenger (column 4) upon general ratios as developed.

The remaining unapportioned amounts in column 1 for this class of expenses after the direct allocations, if any, shall be apportioned to freight (column 3) and passenger (column 4) upon the general ratios as developed.

Enter total transportation-rail line expenses, column 4 in column 8.

V. Transportation—Water Line

Enter total of this class of expense in column 2.

VI. Miscellaneous Operations

The total for this class of expense after direct allocations, if any, shall be apportioned to freight (column 3) and passenger (column 4) upon general ratios as developed.

Enter total miscellaneous operations expenses, column 4, in column 5.

VII. General

The total in column 1 for this class of expenses after direct allocations, if any, shall be apportioned to freight (column 3) and passenger (column 4) upon general ratios as developed.

Enter total general expenses, column 4, in column 8.

VIII. Transportation for Investment—Cr.

The total in column 1 for this expense shall be apportioned to freight (column 3) and passenger (column 4) upon general ratios as developed.

Enter total transportation for investment—Cr., column 4 in column 8.

Data having been entered in accordance with the foregoing instructions, total should be shown in columns 1, 2, 3, 4, 5, and 8, and adjustments made in accordance with the following directions:

Special Adjustments for Eliminating Expenses of Nontrain Revenues

(A) Account 111.—Special service train.

To revenue account 111, apply operating ratio as shown on page 2, Form 51, and enter the result in column 2, and show as credit in freight and passenger, columns 3 and 4, on the basis of general ratios as developed.

Enter amount of credit, column 4, in column 8.

(B) Accounts 113, 114, 115, and 116.—Water transfers, revenue.

To the aggregate of the above-named accounts, apply operating ratio as shown on page 2, Form 51, and enter the result in column 2, and show as credit in freight and passenger, columns 3 and 4, on the basis of general ratios as developed.

Enter amount of credit, column 4, in column 8.

280 (C) Account 133.—Station, train, and boat privileges.
Account 142.—Rents of buildings and other property.
Account 143.—Miscellaneous.

To the aggregate of accounts named above, apply ratio as shown on page 2, Form 51, and enter results in column 2 and show as credit in freight and passenger columns on basis of general ratios as developed.

(D) Account 134.—Parcel room.
Account 136.—Storage—Baggage.

To the aggregate of the accounts named above, apply operating ratio as shown on page 2, Form 51, and enter the result in column 2, and show as a credit in columns 4 and 8.

After above adjustments have been made, show totals for columns 1, 2, 3, 4, 5, and 8, on line, "Grand total after adjustments, A. B, C, and D."

SPECIAL NOTES.

1. The apportionment of column 8 to columns 5, 6, and 7, will be made by the American Short Line Railroad Association, Washington, D. C., for lines it represents and by the Post Office Department upon space ratios developed under plans proposed by each.

2. Carriers not represented by the American Short Line Railroad Association will individually complete the apportionment of column 8 upon space ratios developed by them. No apportionments of column 8 are to be made by individual carriers on the two sets of forms to be sent to the Post Office Department.

On line showing final amounts allocated and apportioned, enter totals in columns 1, 2, 3, and 4, found in same columns of line, "Grand total after adjustments A, B, C, and D." Make no entries in columns 5, 6, and 7.

FORM R. M. P. 52.—INCOME ACCOUNT

Account 501.—Total operating revenues.

Enter in columns 1, 2, 3, 4, 5, 6, and 7, the total amounts shown in same columns, Form R. M. P. 50.

Account 531.—Total operating expenses.

Enter in columns 1, 2, 3, and 4, the total amounts shown in same columns Form R. M. P. 51, page 2 at line 9. Columns 5, 6, and 7 to be left blank.

Account 532.—Railway tax accruals.

Enter total amount in column 1 and apportion to columns 2, 3, and 4, upon ratios of amounts found in same columns, account 351, total operating expenses. Columns 5, 6, and 7 to be left blank.

Account 533.—Uncollectible railway revenues.

Enter total amount in column 1 and allocate direct to freight, column 3.

Nonoperating Income (Columns 1, 2, 3, and 4)

503. Hire of freight cars—Cr. balance.

Allocate to Freight.

504. Rent from locomotives.

Allocate where possible and apportion remainder upon relation of locomotive miles in freight and passenger service.

505. Rent from passenger-train cars.

Allocate to passenger.

506. Rent from floating equipment.

Apportion to freight and passenger on general ratios as developed.

281 507. Rent from work equipment.

Apportion to freight and passenger on general ratios as developed.

508. Joint facility rent income.

Apportion to freight and passenger on relation of the aggregate of amounts in freight and passenger columns of accounts 2207, 2229, 2247, 2256, and 2266 before adjustment.

Deductions from Income (Columns 1, 2, 3, and 4)

536. Hire of freight cars—Dr. balance.

Allocate to freight.

537. Rent for locomotives.

Allocate where possible and apportion remainder upon relation of locomotive miles in freight and passenger service.

538. Rent for passenger-train cars.

Allocate to passenger.

539. Rent for floating equipment.

Apportion to freight and passenger on general ratios as developed.

540. Rent for work equipment.

Apportion to freight and passenger on general ratios as developed.

541. Joint-facility rents.

Apportion to freight and passenger on the relation of the aggregate of amounts in freight and passenger columns of accounts 2206, 2228, 2246, 2255, and 2265 before adjustment.

Net balance, income items.—Enter net balance of income items in columns 1, 3, and 4, leaving columns 5, 6, and 7 blank.

Total all expenses.—Show grand totals, all expenses, columns 1, 2, 3, and 4.

Net railway operating income.—Deduction of total all expenses from total operating revenues, columns 1, 2, 3, and 4.

The reconciliation shown at bottom of this form should be completed by the carrier in each instance.

FORM R. M. P. 53.—TRAFFIC STATISTICS

Train miles, locomotive miles, car miles.—Sections I and II.

To facilitate tabulation, the above data reported to the Interstate Commerce Commission has been rearranged in tables providing for the same information in a different order.

Mileage statistics.—Section III.

Enter data as found on page 14, Table 1403 of carriers' annual report.

Property investment.—Section IV.

Enter data as provided for in the table.

Traffic data.—Section V.

Enter data as found on page 18, Table 1801 in annual report.

FORM R. M. P. 54.—EQUIPMENT INVESTMENT

The amount to be shown in column 2 opposite each item is the value before depreciation as reported in the carriers' annual report to the Interstate Commerce Commission.

Columns 6, 7, and 8 are to be left blank.

In addition to the above general directions, the following instructions are given with reference to the various items shown on the form.

282 Account No. 51.—Steam locomotives.

Subclass 1.—Assigned to column 4, freight, the value of steam locomotives whose total mileage for the year ended December 31, 1925, was performed in freight service exclusively.

Assign to column 5, passenger, the value of steam locomotives whose total mileage for the year ended December 31, 1925, was performed in passenger service exclusively.

Show total amount in column 2.

Subclass 2.—Where locomotives are used interchangeably or in any service involving the handling of both freight and passenger equipment the value shall be apportioned between freight and passenger on the basis of mileage performed for each of these services by classes or types of locomotives during the year ended December 31, 1925. To obtain the ratios for this apportionment all steam locomotives whose mileage records indicate inclusion in subclass 2 shall first be grouped by types or classes. Taking each type or class of locomotive separately reference should then be made to the mileage records maintained for each individual locomotive and obtain for the year 1925 the total number of miles performed in the services classified as follows:

1. Freight.
2. Passenger.
3. Mixed train service.
4. Special train service.
5. Switching service.

Having obtained this information for all locomotives of a given type or class it will be seen that the total mileages opposite classification 1 (freight) and 2 (passenger) assign themselves and it is now necessary to separate to freight and passenger the mileages shown opposite classifications 3 (mixed train service), 4 (special train service), and 5 (switching service). This will be done as follows:

3. Mixed train service.—Total mileage shown under this classification shall be apportioned between freight and passenger on the basis of ratios derived from the relation between mixed-train car-miles shown on page 18 of annual report, Form C, using items 21 to 23, inclusive, for freight and item 24 for passenger.

When division of mileage has been made on the above basis the freight proportion should be added to 1, freight, and the passenger proportion to 2, passenger.

4. Special train service.—Total mileage shown under this classification shall be apportioned between freight and passenger on the basis of ratios derived from the relation between special-train car-miles shown on page 18 of annual report, item 25. Carriers will separate item 25 between freight and passenger in accordance with their knowledge of service performed.

When division of mileage has been made on the above basis the freight proportion should be added to 1, freight, and the passenger proportion to 2, passenger.

5. Switching service.—Total mileage shown under this classification shall be apportioned between the two services on basis of ratios derived from total freight and passenger car-miles as shown on page 18 of annual report. These ratios are developed in the same manner

as the general ratios used for separating operating expenses with the exclusion of locomotive-miles.

When division of mileage has been made on the above basis the freight proportion should be added to 1, freight, and the passenger proportion *ot* 2, passenger.

283 The above computations having been made the total mileage performed by all locomotives of a given type or class has now been apportioned between 1, freight, and 2, passenger. The next step will be to obtain the percentages that each of these groups of mileages are to their total and apply the percentages so found to the total value of locomotives of the group. This will result in a division of the value between freight and passenger based on miles of service performed.

The above processes should be repeated until the value of all locomotives of all types or classes included in subclass 2 of account 51 has been apportioned between freight and passenger then the total shall be entered in column 2 on the form; the freight proportion in column 4 and the passenger proportion in column 5.

Subclass 3.—The value of locomotives shown in column 2 opposite this subclass shall be apportioned to freight and passenger on the basis of the separations in column 4 (freight) and column 5 (passenger) previously made for subclasses 1 and 2 taken together.

Account No. 52.—Other locomotives.

Subclass 1 (a).—Assign to column 4, freight, the value of electric locomotives whose total mileage for the year ended December 31, 1925, was performed in freight service exclusively.

Assign to column 5, passenger, the value of electric locomotives whose total mileage for the year ended December 31, 1925, was performed in passenger service exclusively.

Show total amount in column 2.

Subclass 1 (b).—Follow general directions outlined under subclass 2 for steam locomotives substituting electric car and locomotive miles for the steam mileages.

Subclass 1 (c).—The value of electric locomotives shown in column 2 opposite this subclass shall be apportioned to column 4 (freight) and column 5 (passenger) on the relation of separations made for subclasses 1 (a) and 1 (b) taken together.

Subclass 2.—The value of the locomotives shown in column 2 opposite this subclass shall be apportioned to column 4 (freight) and column 5 (passenger) on the relation of the aggregate of total amounts for all locomotives (both steam and electric) as found in columns 3 and 4.

Account No. 53.—Freight-train cars.

The value of all freight-train cars shall be shown in column 2 opposite this account and allocated direct to column 4 (freight).

Account No. 54.—Passenger-train cars.

Show in column 2 in accordance with the subclasses as shown the value of passenger train cars owned and allocate in each instance the amount so shown to column 5, passenger.

SPECIAL.—Careful investigation of available records should be made in order that correct classification of equipment will be made in subclasses 4 to 7, inclusive.

Account No. 55.—Motor equipment of cars.

Subclass 1.—Assign to column 4, freight, the value of all motor equipment of cars, including the wiring for such electric equipment, used in exclusive freight service for the year ended December 31, 1925.

284 Assign to column 5, passenger, the value of all motor equipment of cars, including the wiring of such electric equipment, used in exclusive passenger service for the year ended December 31, 1925.

Subclass 2 (b).—The value of floating equipment used in ferry or wiring of such electric equipment of all cars used interchangeably in freight and passenger services, as shown in column 2 opposite this account shall be apportioned between the two services on basis of ratios derived from total freight and passenger car miles as shown on page 18 of annual report. These ratios are developed in the same manner as the general ratios used for separating operating expenses with the exclusion of locomotive miles.

Account No. 56.—Floating equipment.

Subclass 1.—The value of floating equipment operated in water-line transportation service should be shown in column 2 opposite this subclass and allocated direct to column 3 as not related to this inquiry.

Subclass 2 (a).—Assign to column 4, freight, the value of all floating equipment used in ferry or water transfer service for freight service exclusively.

Assign to column 5, passenger, the value of all floating equipment used in ferry or water transfer service for passenger service exclusively.

Subclass 2 (b).—The value of floating equipment used in ferry or water transfer service and used interchangeably in freight and passenger services should be shown in column 2 opposite this subclass and apportioned to column 4 (freight) and column 5 (passenger) on ratios used for apportionment of subclass 2, account No. 55.

Account No. 57.—Work equipment.

The value of work equipment shown in column 2 opposite this account shall be apportioned to column 4 (freight) and column 5 (passenger) on ratios used for apportionment of subclass 2, account No. 55.

Account No. 58.—Miscellaneous equipment.

The value of miscellaneous equipment shown in column 2 opposite this account shall be apportioned to column 4 (freight) and column

5 (passenger) on ratios used for apportionment of subclass 2, account No. 55.

The total investment in equipment, column 2, should equal total investment in equipment before depreciation as of December 31, 1925.

285 *Exhibit No. 737, one page, follows*

286 I. C. C. Docket No. 9200, Exhibit No. 737 (Huntt-A)

GEORGIA & FLORIDA RAILROAD (W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS)

Development of space ratios based on test period, September 28 to October 25, 1931

	Full cars	Combination	Unoccupied	Total	Space ratios
Passenger	1,728,382	333,296	253,749	2,315,427	76.02
Baggage		35,010	26,707	61,717	2.03
Express		119,593	91,056	210,649	6.92
Mail		259,968	197,943	457,911	15.03
Total	1,728,382	747,867	569,455	3,045,704	100.00

287 *Exhibit No. 738, one page, follows*

288 I. C. C. Docket No. 9200, Exhibit No. 738 (Huntt-B)

GEORGIA & FLORIDA RAILROAD (W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS)

Separation of total expenses between freight and passenger services

	Total expenses	Not related	Freight service	Passenger service	Passenger and miscellaneous	Express	Mail	To be apportioned on C. F. M.
1931	$1,449,801.96	$7,391.92	$1,127,137.23	$315,272.81	295.05	$	$	$313,977.76
1930	1,005,531.61	6,679.86	1,258,034.12	340,817.63	2,527.42			338,290.21
1929	1,547,724.80	7,424.92	1,153,931.00	396,368.88	3,952.75			392,416.13

289 *Exhibit No. 739, one page, follows*

290 I. C. C. Docket No. 9200, Exhibit No. 739 (Huntt-C)

GEORGIA & FLORIDA RAILROAD (W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS)

Separation of expenses assigned to passenger service on space ratios

	Passenger service	Passenger and miscellaneous	Express	Mail
1931	315,273	246,355	21,727	47,191
1930	340,818	266,563	23,410	50,845
1929	396,369	310,234	27,155	58,980

291 *Exhibit No. 740, one page, follows*

292 I. C. C. Docket No. 9200, Exhibit No. 740 (Huntt-D)

GEORGIA & FLORIDA RAILROAD (W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS)

Investment, years 1929, 1930, and 1931, showing fair return computed thereon

	1929	5¾ per-cent	1930	5¾ per-cent	1931	5¾ per-cent
INVESTMENT IN ROAD						
Balance as of Dec. 31st	$20,010,845		$20,153,534		$20,205,052	
Pass:						
Greenwood Extension	3,409,417		3,509,143		3,513,126	
Industry Tracks	208,892		218,194		214,040	
Abandoned Property	58,551		530,498		530,498	
Adjusted Investment	16,333,985		15,895,699		15,947,388	
Freight Proportion—Allocated	12,199,853		12,557,602		12,528,268	
Passenger Proportion—Allocated	4,134,132		3,338,097		3,419,120	
Mail Proportion—Space Ratio	621,360	$35,728	501,716	$28,849	513,894	$29,549
INVESTMENT IN EQUIPMENT.						
Passenger Proportion Assigned	159,609		157,365		158,638	
Depreciation	14,047		18,482		23,381	
Passenger Investment Less Depreciation	145,562		138,883		135,257	
Mail Proportion—Space Ratio	21,878	1,258	20,804	1,200	20,329	1,169
Fair Return on Investment		36,986		30,049		30,718

293 *Exhibit No. 741, four pages, follows*

294 I. C. C. Docket No. 9200, Exhibit No. 741, Sheet 1 (Huntt-E)

GEORGIA & FLORIDA RAILROAD (W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS)

Deficiency based on 3-year average

	Actual mail revenue	Additional revenue necessary to meet operating expenses and 5¾ percent return	Percent increase needed
1929	$40,904	$55,062	134.61
1930	39,087	41,807	106.95
1931	35,728	42,181	118.06
Total	115,719	139,050	120.16
Average	38,573	46,350	120.16

295 I. C. C. Docket No. 9200, Exhibit No. 741, Sheet 2 (Huntt-E)

GEORGIA & FLORIDA RAILROAD (W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS)

Determination of mail pay deficiency, year 1931

	Passenger service	Passenger and miscellaneous	Express	Mail
Total Operating Revenue	$79,644	$36,323	$7,593	$35,728
Total All Expenses	315,273	246,355	21,727	47,191
Amount Mail Failed to Meet Expenses				11,463
Return 5¾% on Mail Investment				30,718
Grand Total Mail Deficiency				42,181
Percentage Mail Deficiency				118.06

296 I. C. C. Docket No. 9200, Exhibit No. 741, Sheet 3 (Huntt-E)

GEORGIA & FLORIDA RAILROAD (W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS)

Determination of mail pay deficiency, year 1930

	Passenger service	Passenger and miscellaneous	Express	Mail
Total Operating Revenue	$115,590	$64,039	$12,464	$39,087
Total All Expenses	340,818	266,563	23,410	50,845
Amount mail failed to meet expenses				11,758
Return 5¾% on mail investment				30,049
Grand Total Mail Deficiency				41,807
Percentage Mail Deficiency				106.95

297 I. C. C. Docket No. 9200, Exhibit No. 741, Sheet 4 (Huntt-E)

GEORGIA & FLORIDA RAILROAD (W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS)

Determination of mail pay deficiency, year 1929

	Passenger service	Passenger and miscellaneous	Express	Mail
Total Operating Revenue	$173,875	$111,289	$21,682	$40,904
Total All Expenses	396,369	310,234	27,155	58,980
Amount mail failed to meet expenses				18,076
Return 5¾% on mail investment				36,986
Grand Total Mail Deficiency				55,062
Percentage Mail Deficiency				134.61

298 *Exhibit No. 742, eight pages, follows*

299 POST OFFICE DEPARTMENT EXHIBIT NO. 742 (I. C. C. DOCKET NO. 9200)

Statement showing the amounts paid to the Georgia and Florida Railroad for the transportation of the mails for the fiscal years 1925 to 1931, inclusive

Year	Regular service	Emergency service	Retroactive pay	Total pay
1925	$31,314.90	$0.49		$31,315.39
1926	28,386.86		$4,081.92	32,468.78
1927	27,838.77		4,175.93	32,014.70
1928	30,853.02		4,626.93	35,479.95
1929	41,957.90		465.40	42,423.30
1930	40,586.66	5.10		40,591.76
1931	37,915.88	18.07		37,933.95

POST OFFICE DEPARTMENT EXHIBIT No. 742 (I. C. C. DOCKET No. 9200)

Statement showing the mail service in effect November 1, 1931, on the Georgia and Florida Railroad

Route number	Train number	Termini	Unit authorized	Distance (miles)	Frequency	No. of trips per annum	Miles per annum	Rate per mile (cts.)	Pay at rates per mile	Minimum pay	Total pay per annum
104781	1	Midville-Garfield, Ga	3-ft. C. P	17.44	Sundays	52	906.88	4.5	$40.80		
	1	Garfield-Graymont, Ga	3-ft. C. P	6.66	"	52	346.32	4.5	15.58		
	1	Keysville-Gibson, Ga	3-ft. C. P	24.10	Da. ex. Sun	313	7,543.30	4.5	339.44		
	2	Graymont-Garfield, Ga	3-ft. C. P	6.66	Sundays	52	346.32	4.5	15.58		
	2	Garfield-Midville, Ga	3-ft. C. P	17.44	"	52	906.88	4.5	40.80		
	2	Gibson-Keysville, Ga	3-ft. C. P	24.10	Da. ex. Sun	313	7,543.30	4.5	339.44		
	4	Valdosta-Augusta, Ga	15-ft. Apt	222.90	Daily	365	81,358.50	14.5	11,796.98		
	5	Augusta-Valdosta, Ga	15-ft. Apt	222.90	"	365	81,358.50	14.5	11,796.98		
	17	Valdosta, Ga.-Madison, Fla	3-ft. C. P	27.39	Da. ex. Sun	313	8,573.07	4.5	385.78		
	18	Madison, Fla.-Valdosta, Ga	3-ft. C. P	27.39	"	313	8,573.07	4.5	385.78		
	21	Augusta-Tennille, Ga	15-ft. Apt	83.30	"	313	26,072.90	14.5	3,780.57		
	22	Tennille-Augusta, Ga	15-ft. Apt	83.30	"	313	26,072.90	14.5	3,780.57		
	22	Tennille-Keysville, Ga	3-ft. C. P	56.90	Sundays	52	2,958.80	4.5	133.14		
	43	Garfield-Graymont, Ga	3-ft. C. P	6.66	Da. ex. Sun	313	2,084.58	4.5	93.80		
	43	Graymont-Garfield, Ga	3-ft. C. P	6.66	"	313	2,084.58	4.5	93.80		
	43	Midville-Garfield, Ga	3-ft. C. P	17.44	"	313	5,458.72	4.5	245.64		
	43	Garfield-Statesboro, Ga	3-ft. C. P	25.19	"	313	7,884.47	4.5	354.80		
	44	Statesboro-Midville, Ga	3-ft. C. P	42.63	"	313	13,343.19	4.5	600.44		
	45	Graymont-Garfield, Ga	3-ft. C. P	6.66	"	313	2,084.58	4.5	93.80		
	46	Garfield-Graymont, Ga	3-ft. C. P	6.66	"	313	2,084.58	4.5	93.80		$34,427.52
104878	30	Douglas-Broxton, Ga	3-ft. C. P	8.50	M. W. & F	156	1,326.00	4.5	59.67		
	31	Broxton-Douglas, Ga	3-ft. C. P	8.50	M. W. & F	156	1,326.00	4.5	59.67		
	32	Douglas-Broxton, Ga	3-ft. C. P	8.50	Tu. Th. & Sa	156	1,326.00	4.5	59.67	$612.00	612.00
		Total authorized pay per annum									35,039.52

301 POST OFFICE DEPARTMENT EXHIBIT No. 742 (I. C. C. DOCKET No. 9200)

Computed car-foot miles of passenger service operated by the Georgia and Florida Railroad during the calendar years 1929, 1930, and 1931

Type of car	1929			1930			1931		
	Car Miles	Length	Car-foot miles	Car miles	Length	Car-foot miles	Car miles	Length	Car-foot miles
		(Feet)			(Feet)			(Feet)	
Passenger coaches	536, 780	(a) 57	30, 593, 610	505, 465	(a) 57	28, 811, 505	464, 003	(a) 57	25, 878, 171
Sleeping and dining	148, 736	(b) 66	9, 816, 576	58, 005	(b) 66	3, 828, 330	42, 138	(b) 66	2, 781, 108
Combination	477, 475	(c) 55	26, 261, 125	386, 143	(c) 55	21, 237, 865	351, 020	(c) 55	19, 306, 100
Total	1, 162, 941		66, 671, 311	949, 613		53, 877, 700	847, 161		47, 965, 379
Motor cars	(d)			11, 860			20, 803		
Total reported to the Interstate Commerce Commission	1, 162, 941			961, 473			867, 964		

(a) Average length of passenger coaches operated during the test period.
(b) Length furnished by the Georgia and Florida Railroad.
(c) Average length of combination cars operated during the test period.
(d) Annual reports to Interstate Commerce Commission do not show that any motor cars were operated but reports to the Post Office Department of mail service performed show that there were actually performed approximately 732 miles of such service for which the Georgia and Florida Railroad received $32.92.

302 POST OFFICE DEPARTMENT EXHIBIT No. 742 (I. C. C. DOCKET No. 9200)

Statement showing the service performed in passenger equipment and pay therefor, the pay for the service performed in motor cars and the grand total paid to the Georgia and Florida Railroad for the transportation of the mails during the calendar years 1929, 1930, and 1931

Year	Mail service performed in combination cars					Mail service performed in motor cars	Total pay for transportation
	15-ft. apt.	6-ft. storage	3-ft. storage	3-ft. C. P.	Pay		
1929	235, 980. 74		113. 62	112, 132. 46	$40, 871. 33	$32. 92	$40, 904. 25
1930	234, 099. 69	6. 40	370. 43	84, 625. 41	39, 087. 46	458. 76	39, 546. 22
1931	214, 742. 75			82, 883. 15	35, 728. 01	979. 36	36, 707. 37

303 POST OFFICE DEPARTMENT EXHIBIT No. 742 (I. C. C. DOCKET No. 9200)

Form R. M. P. 401.—Statement showing (1) the car and car-foot miles operated in passenger service by the Georgia and Florida Railroad during the 28-day test period, September 28 to October 25, 1931, and (2) showing 28/365 of the total passenger car and car-foot miles operated during the calendar years 1929, 1930, and 1931

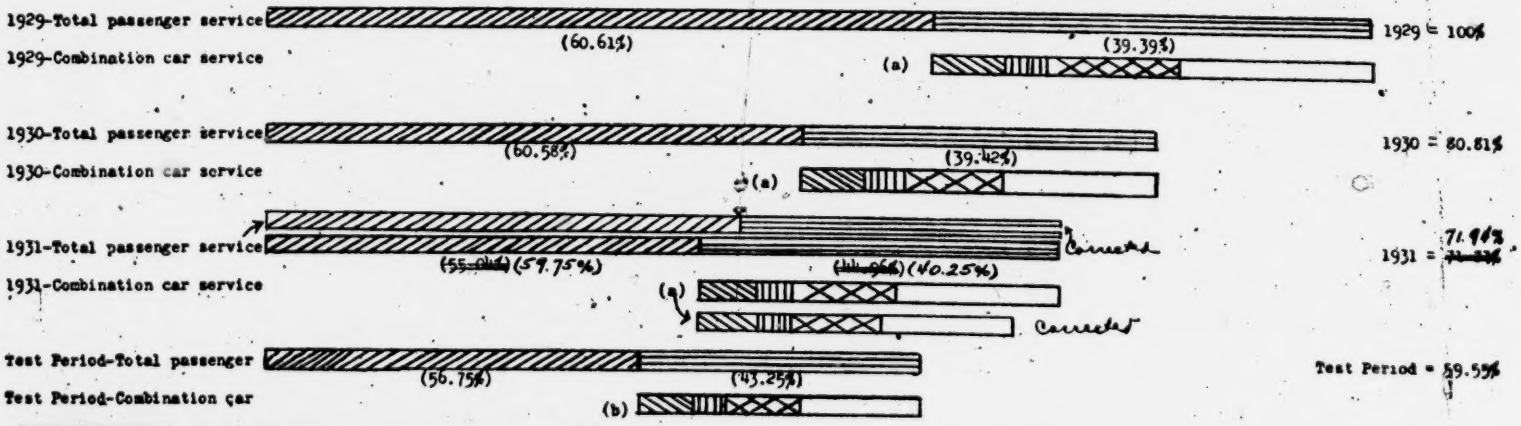
	Total car miles	Total car-foot miles	Total strictly passenger service		Total combination cars	
			Car miles	Car-foot miles	Car miles	Car-foot miles
Test period	54, 706	3, 045, 704	30, 570	1, 728, 382	24, 136	1, 317, 322
1929	89, 212	5, 114, 511	52, 584	3, 099, 959	36, 628	2, 014, 552
1930	72, 847	4, 133, 084	43, 225	2, 503, 678	29, 622	1, 629, 206
1931	64, 988	3, 679, 536	38, 060	2, 198, 520	26, 928	1, 481, 016

Form R. M. P. 402.—Statement showing (1) the operation of space in combination cars by the Georgia and Florida Railroad during the 28-day test period, September 28 to October 25, 1931; (2) showing for the years 1929, 1930, and 1931 28/365 of the operation of authorized mail service by units; and (3) showing 28/365 of the car-foot miles apportioned to passenger, baggage, miscellaneous, express, and unoccupied space on ratios secured during the test period

	Passenger apartment	Other passenger	Express	15-foot mail apartment	6-foot storage	3-foot storage	3-foot closed pouch	Total authorized mail space	Unoccupied space	Total car-foot miles combination cars
Test period	333, 296	35, 010	119, 593	246, 960	-------	-------	13, 008	259, 968	569, 455	1, 317, 322
1929	540, 530	56, 762	193, 953	273, 841	-------	26	25, 806	299, 673	923, 634	2, 014, 552
1930	423, 192	44, 440	151, 850	269, 375	3	85	17, 129	286, 592	723, 132	1, 629, 206
1931	382, 932	40, 197	137, 399	247, 101	-------	-------	19, 074	266, 175	654, 313	1, 481, 016

Post Office Department Exhibit No. 147
(I.C.C. Docket No. 9200)

Graph showing (1) the operation of space in passenger service on the GEORGIA AND FLORIDA RAILROAD for the year 1929 compared with that for the years 1930, 1931 and test period extended to one year, and (2) showing the method used by the Post Office Department in the apportionment of space in combination cars for the years 1929, 1930 and 1931.



(a) Apportioned by using test period ratios for other than mail service.
(b) Ratios excluding mail - Express 11.31%; Passenger 34.83%; and Unoccupied Space 53.86%.

305 POST OFFICE DEPARTMENT EXHIBIT No. 742 (I. C. C. DOCKET No. 9200)

Comparison of ratios for passenger, express, and mail for the test period September 28 to October 25, 1931, with those under the adjusted basis for the years 1929, 1930, and 1931 for the Georgia & Florida Railroad

PLAN 1

	Passenger	Express	Mail
Test period	72.73	17.27	9.98
1929	75.99	16.46	7.55
1930	73.54	16.11	8.35
1931	74.88	16.16	8.96

PLAN 2

Test period	78.05	6.92	15.03
1929	82.18	7.00	10.82
1930	80.92	6.61	12.47
1931	80.35	6.69	12.96

PLAN 3

Test period	84.67	4.83	10.50
1929	88.22	4.63	7.15
1930	87.14	4.45	8.41
1931	86.66	4.54	8.80

WITHOUT ANY UNOCCUPIED SPACE CHARGED TO THE MAILS

	Mail	All other
Test period	8.54	91.46
1929	5.86	94.14
1930	6.93	93.07
1931	7.23	92.77

RATIOS OF UNOCCUPIED SPACE CHARGED TO THE MAILS TO AUTHORIZED MAIL SERVICE

	Plan 1	Plan 2	Plan 3
Test period	17.00	76.14	23.00
1929	28.82	84.67	22.04
1930	20.41	79.81	21.22
1931	23.91	79.15	21.63

306 POST OFFICE DEPARTMENT EXHIBIT No. 742 (I. C. C. DOCKET No. 9200)

Statement showing for the period September 28 to October 25, 1931, the maximum and minimum number of mail bags or equivalent handled on any trip or part thereof, and the average maximum and average number of mail bags or equivalent handled on all trips and parts thereof during the entire statistical period on all closed pouch trains of the Georgia and Florida Railroad

Train number	Termini	Frequency	Maximum number of mail bags or equivalent handled on any trip or part thereof	Minimum number of mail bags or equivalent handled on any trip or part thereof	Average maximum number of mail bags or equivalent handled on all trips and parts thereof	Average minimum number of mail bags or equivalent handled on all trips and parts thereof
43	Midville via Graymont to Statesboro, Ga.	Daily ex. Sunday	27	3	20	5
44	Statesboro-Midville, Ga.	" " "	22	1	10	6
45	Graymont-Garfield, Ga. (a)	" " "	11	2	4	8
46	Garfield-Graymont, Ga. (a)	" " "	7	2	5	2
1	Midville-Graymont, Ga. (a)	Sundays only	20	3	6	4
2	Graymont-Midville, Ga. (a)	" "	27	1	17	5
1	Keysville-Gibson, Ga. (a)	Daily ex. Sunday	13	1	10	2
2	Gibson-Keysville, Ga. (a)	" " "	9	1	6	1
30	Douglas-Broxton, Ga.	Mon., Wed., Fri.	14	4	9	9
31	Broxton-Douglas, Ga.	" " "	6	1	2	2
32	Douglas-Broxton, Ga.	Tues., Thurs., Sat.	10	3	7	7
33	Broxton-Douglas, Ga.	" " "	8	2	4	4
22	Tennille-Keysville, Ga.	Sundays only	61	1	55	1
17	Valdosta, Ga.-Madison, Fla.	Daily ex. Sunday	12	6	11	6
18	Madison, Fla.-Valdosta, Ga.	" " "	10	5	8	6

(a) Carried on motor car.

307 *Exhibit No. 743 revised, received in evidence*

308 Received in evidence July 23, 1932. Docket 9200.

Post Office Department, Exhibit No. 743

Total car miles car-foot miles, income account, investment in property, and Florida R. R.

Item no.	Item	Total amounts	Freight	Per cent to total—col. 3	Passenger (including express and mail)	Per cent to total—col. 3	Plan no. 1	
							Passenger (including baggage and miscel.)	Per cent to total pass'g'r—col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Car miles: As operated, year ending December 31, 1929.	8,280,437	7,117,496	85.96	1,162,941	14.04		
2	Equated 60 foot (Total line 3 divided by 60).				1,111,189	100	844,392	75.99
3	Car-foot miles: For the year ending December 31, 1929.				66,671,311	100	50,663,529	75.99
	Income account:	$	$		$		$	
4	Railway operating revenues	1,665,159.06	1,470,835.99	88.33	173,874.88	10.44	111,289.30	64.01
5	Total railway operating expenses allocated * and apportioned.	1,471,704.88	1,094,069.29	74.34	370,740.87	25.19	281,740.31	75.99
6	Net revenue from railway operations.	193,454.18	376,766.70	194.76	[1] 196,865.99	101.76	[1] 170,451.01	86.58
7	Railway tax accruals	112,807.75	83,861.28	74.34	28,416.27	25.19	21,593.52	75.99
8	Uncollectible railway revenues.	140.05	140.05	100				
9	Railway operating income	80,506.38	292,765.37	363.65	[1] 225,282.26	279.83	[1] 192,044.53	85.25
10	Equipment and joint facility rents—Net balance.	26,927.88	24,139.62	89.65	2,788.26	10.35	2,118.80	75.99
11	Net railway operating income.	107,434.26	316,904.99	294.98	[1] 222,494.00	207.10	[1] 189,925.73	85.36
12	Per cent of net income (11) to operating revenues (4).	6.45	21.55					
13	Operating ratio: Per cent of expenses (5) to revenues (4).	88.38	74.38		213.22		253.16	
	Car-mile revenue, expense, etc.—Prorated 60 foot.	*Cents*	*Cents*		*Cents*		*Cents*	
14	Railway operating revenues (4).	20.11	20.66		15.65		13.18	
15	Total railway operating expenses (5).	17.77	15.37		33.36		33.37	
16	Net revenue from railway operations (6).	2.34	5.29		[1] 17.71		[1] 20.19	
17	Expenditures out of operating revenues (5, 7, 8, and 10).	18.81	16.21		35.67		35.67	
18	Net income (11)	1.30	4.45		[1] 20.02		[1] 22.49	
	Car-foot mile revenue, expense, etc.:							
19	Railway operating revenues (4).				.261		.220	
20	Total railway operating expenses (5).				.556		.556	
21	Net revenue from railway operations (6).				[1] .295		[1] .336	
22	Expenditures out of operating revenues (5, 7, 8, and 10).				.595		.595	
23	Net income (11)				[1] .334		[1] .375	

* Total expense allocated to passenger direct (Form R. M. P. 51).

[1] Indicated red figures

July 23, 1932, two pages, follows

(Revised) (I. C. C. Docket No. 9200)

selected statistics, for the year ended December 31, 1929. Georgia & Company

Plan no. 1				Plan no. 2								
Express	Per cent to total pass'g'r—col. 6	Mail	Per cent to total pass'g'r—col. 6	Passenger (including baggage and miscel.)	Per cent to total pass'g'r—col. 6	Express	Per cent to total pass'g'r—col. 6	Mail	Per cent to total pass'g'r—col. 6	Not related to this inquiry	Per cent to total—col. 3	Item no.
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
												1
182,902	16.46	83,893	7.55	913,175	82.18	77,783	7.00	120,231	10.82			2
10,974,098	16.46	5,033,684	7.55	54,790,483	82.18	4,666,992	7.00	7,213,836	10.82			3
$ 21,681.32	12.47	$ 40,904.26	23.52	$ 111,289.30	64.01	$ 21,681.32	12.47	$ 40,904.26	23.52	$ 20,448.19	1.23	4
61,014.54	16.46	27,986.02	7.55	304,683.82	82.18	25,943.36	7.00	40,108.69	10.82	6,894.72	.47	5
[1] 39,333.22	19.96	12,918.24	6.56	[1] 193,394.52	98.24	[1] 4,267.04	2.16	795.57	.40	13,553.47	7.00	6
4,677.32	16.46	2,145.43	7.55	23,352.49	82.18	1,989.14	7.00	3,074.64	10.82	530.20	.47	7
												8
[1] 44,010.54	19.53	10,772.81	4.78	[1] 216,747.01	96.21	[1] 6,256.18	2.78	[1] 2,279.07	1.01	13,023.27	16.18	9
458.96	16.46	210.51	7.55	2,291.39	82.18	195.18	7.00	301.69	10.82			10
[1] 43,551.59	19.57	10,983.32	4.93	[1] 214,455.62	96.39	[1] 6,061.00	2.72	[1] 1,977.38	.89	13,023.27	12.12	11
		26.85										12
281.42		68.42		273.78		119.68		98.06				13
Cents 11.85		*Cents* 48.75		*Cents* 12.19		*Cents* 27.87		*Cents* 34.02				14
33.36		33.35		33.37		33.36		33.36				15
[1] 21.51		15.40		[1] 21.18		[1] 5.49		.66				16
35.66		35.66		35.67		35.66		35.66				17
[1] 23.81		13.09		[1] 23.48		[1] 7.79		[1] 1.64				18
.198		.812		.203		.465		.567				19
.556		.556		.556		.556		.556				20
[1].353		.256		[1].353		[1].091		.011				21
.594		.594		.594		.594		.594				22
[1].396		.218		[1].391		[1].129		[1].027				23

Post Office Department, Exhibit No. 743

Total car miles, car-foot miles, income account, investment in property, and R. R.

Item no.	Item	Total amounts	Freight	Per cent to total—col. 3	Passenger (including express and mail)	Per cent to total—col. 3	Plan no. 1	
							Passenger (including baggage and miscel.)	Per cent to total pass'g'r—col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Investment in property (December 31, 1929):	$	$		$		$	
24	Road investment—Apportioned.	20,010,844.76	12,142,683.85	60.68	4,114,530.62	20.56	3,126,631.82	75.99
25	Equipment investment—Allocated.	1,578,910.67	1,419,301.64	89.89	159,609.03	10.11	43,437.82	27.22
26	Equipment investment—Apportioned.						77,336.84	48.45
27	Total	21,589,755.43	13,561,985.49	62.82	4,274,139.65	19.80	3,247,406.48	75.98
28	Equipment depreciation	138,948.46	124,900.77	89.89	14,047.69	10.11	10,629.89	75.67
29	Total investment in road and equipment.	21,450,806.97	13,437,084.72	62.64	4,260,091.96	19.86	3,236,776.59	75.98
30	Per cent of net income (11) to property investment (29).	.50	2.36					
31	Passenger service train revenue (I. C. C. 103) exclusive of mail and express revenue.							
32	Same per passenger 60-foot car-mile (Item 2).							
33								
34								
35								

(Revised) (I. C. C. Docket No. 9200)—Continued

selected statistics for the year ended December 31, 1929. Georgia & Florida Company—Continued

Plan no. 1				Plan no. 2						Not related to this inquiry	Per cent to total—col. 3	Item no.
Express	Per cent to total pass'g'r—col. 6	Mail	Per cent to total pass'g'r—col. 6	Passenger (including baggage and miscel.)	Per cent to total pass'g'r—col. 6	Express	Per cent to total pass'g'r—col. 6	Mail	Per cent to total pass'g'r—col. 6			
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
$		$		$		$		$		$		
677,251.74	16.46	310,647.06	7.55	3,381,321.27	82.19	288,017.14	7.00	445,192.21	10.82	3,753,630.29	18.76	24
				43,437.82	77.22							25
26,623.62	16.68	12,210.75	7.65	87,342.51	54.72	11,325.89	7.10	17,502.81	10.96			26
703,875.36	16.47	322,857.81	7.55	3,512,101.60	82.17	299,343.03	7.00	462,695.02	10.83	3,753,630.29	17.38	27
2,343.15	16.68	1,074.65	7.65	11,510.68	81.94	995.98	7.09	1,541.03	10.97			28
701,532.21	16.47	321,783.16	7.55	3,500,590.92	82.17	298,347.05	7.00	467,153.99	10.83	3,753,630.29	17.50	29
		3.41										30
												31
												32
												33
												34
												35

309 Received in evidence. Docket 9200. July 23, 1932.

Post Office Department, Exhibit No. 743

Total car miles, car-foot miles, income account, investment in property, and Florida

Item no.	Item	Total amounts	Freight	Per cent to total—col. 3	Passenger (including express and mail)	Per cent to total—col. 3	Plan no. 3	
							Passenger (including baggage and miscel.)	Per cent to total pass'g'r—col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Car miles:							
1	As operated, year ending December 31, 1929.	8,280,437	7,117,496	85.96	1,162,941	14.04		
2	Equated 60 foot (total line 3 divided by 60).				1,111,189	100	980,291	88.22
	Car-foot miles:							
3	For the year ending December 31, 1929.				66,671,311	100	58,817,431	88.22
	Income account:	$	$		$		$	
4	Railway operating revenues.	1,665,159.06	1,470,835.99	88.33	173,874.88	10.44	111,289.30	64.01
5	Total railway operating expenses allocated* and apportioned.	1,471,704.88	1,094,069.29	74.34	370,740.87	25.19	327,074.90	88.22
6	Net revenue from railway operations.	193,454.18	376,766.70	194.76	[1] 196,865.99	101.76	[1] 215,785.60	109.61
7	Railway tax accruals	112,807.75	83,861.28	74.34	28,416.27	25.19	25,068.84	88.22
8	Uncollectible railway revenues.	140.05	140.05	100				
9	Railway operating income	80,506.38	292,765.37	363.65	[1] 225,282.26	279.83	[1] 240,854.44	106.91
10	Equipment and joint facility rents—Net balance.	26,927.88	24,139.62	89.65	2,788.26	10.35	2,459.80	88.22
11	Net railway operating income.	107,434.26	316,904.99	294.98	[1] 222,494.00	207.10	[1] 238,394.64	107.15
12	Per cent of net income (11) to operating revenues (4).	6.45	21.55					
13	Operating ratio: Per cent of expenses (5) to revenues (4).	88.38	74.38		213.22		293.90	
	Car-mile revenue, expense, etc.—Prorated 60 foot:	*Cents*	*Cents*		*Cents*		*Cents*	
14	Railway operating revenues (4).	20.11	20.66		15.65		11.35	
15	Total railway operating expenses (5).	17.77	15.37		33.36		3 3.36	
16	Net revenue from railway operations (6).	2.34	5.29		[1] 17.71		[1] 22.01	
17	Expenditures out of operating revenues (5, 7, 8, and 10).	18.81	16.21		35.67		3 5.67	
18	Net income (11)	1.30	4.45		[1] 20.02		[1] 24.32	
	Car-foot mile revenue, expense, etc.:							
19	Railway operating revenues (4).				.261		.189	
20	Total railway operating expenses (5).				.366		.356	
21	Net revenue from railway operations (6).				[1] .295		[1] .367	
22	Expenditures out of operating revenues (5, 7, 8, and 10).				.595		.594	
23	Net income (11)				[1] .334		[1] .405	

[1] Indicated red figures.
*Total expense allocated to passenger direct (Form R. W. P. 51).

(Revised) (I. C. C. Docket No. 9200)—Continued

selected statistics, for the year ended December 31, 1929. Georgia & Company—Continued

Plan no. 3				With no charge of empty space to mail								
Express	Per cent to total pass'g'r—col. 6	Mail	Per cent to total pass'g'r—col. 6	Passenger (including baggage and miscel.)	Per cent to total pass'g'r—col. 6	Express	Per cent to total pass'g'r—col. 6	Mail	Per cent to total pass'g'r—col. 6	Not related to this inquiry	Per cent to total—col. 3	Item no.
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
												1
51,448	4.63	79,450	7.15	1,046,073	94.14			65,116	5.86			2
3,086,882	4.63	4,766,998	7.15	62,764,372	94.14			3,906,939	5.86			3
$		$		$		$		$		$		
21,681.32	12.47	40,904.26	23.52	132,970.62	76.47			40,904.26	23.53	20,448.19	1.23	4
17,162.91	4.63	26,503.06	7.15	349,019.05	94.14			21,721.82	5.86	6,894.72	.47	5
4,518.41	2.29	14,401.20	7.32	[1] 216,048.43	109.74			19,182.44	9.74	13,553.47	7.00	6
1,315.67	4.63	2,031.76	7.15	26,751.08	94.14			1,665.19	5.86	530.20	.47	7
												8
3,202.74	1.42	12,369.44	5.49	[1] 242,799.51	107.78			17,517.25	7.78	13,023.27	16.18	9
129.10	4.63	199.36	7.15	2,624.87	94.14			163.39	5.86			10
3,331.84	1.50	12,568.80	5.65	[1] 240,174.64	107.95			17,680.64	7.95	13,023.27	12.12	11
15.37		30.73						43.22				12
79.18		64.79		262.48				53.10				13
Cents		*Cents*		*Cents*		*Cents*		*Cents*		*Cents*		
42.14		51.48		12.71				62.81				14
33.36		33.36		33.36				33.35				15
8.78		18.12		[1] 20.65				29.46				16
35.66		35.66		35.67				35.66				17
6.48		15.82		[1] 22.96				27.15				18
.702		.858		.212				1.047				19
.556		.556		.556				.556				20
.146		.302		[1] .844				.491				21
.594		.594		.595				.594				22
.108		.264		[1] .383				.453				23

Post Office Department, Exhibit No. 743

Total car miles, car-foot miles, income account, investment in property, and Florida

Item no.	Item	Total amount	Freight	Per cent to total—col. 3	Passenger (including expires and mail)	Per cent to total—col. 3	Plan no. 3	
							Passenger (including baggage and miscel.)	Per cent to total pass'g'r—col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Investment in property (December 31, 1929):	$	$		$		$	
24	Road investment—Apportioned.	20,010,844.76	12,142,683.85	60.68	4,114,530.62	20.56	3,629,838.91	88.22
25	Equipment investment—Allocated.	1,578,910.67	1,419,301.64	89.89	159,609.03	10.11	43,437.82	27.21
26	Equipment investment—Apportioned.						97,117.63	60.85
27	Total	21,589,755.43	13,561,985.49	62.82	4,274,139.65	19.80	3,770,394.36	88.22
28	Equipment depreciation	138,948.46	124,900.77	89.89	14,047.69	10.11	12,370.39	88.06
29	Total investment in road and equipment.	21,450,806.97	13,437,084.72	62.64	4,260,091.96	19.86	3,758,023.97	88.22
30	Per cent of net income (11) to property investment (29).	.50	2.36					
31	Passenger service train revenue (I. C. C. 103), exclusive of mail and express revenue.							
32	Same, per passenger 60-foot car-mile (item 2).							
33								
34								
35								

(Revised) (I. C. C. Docket No. 9200)—Continued

selected statistics, for the year ended December 31, 1980, Georgia & Company—Continued

Plan no. 3				With no charge of empty space to mail						Not related to this inquiry.	Per cent to total—col. 3	Item no.
Express	Per cent to total pass'g'r—col. 6	mail	Per cent to total pass'g'r—col. 6	Passenger (including baggage and miscel.)	Per cent to total pass'g'r—col. 6	Express	Per cent to total pass'g'r—col. 6	Mail	Per cent to total pass'g'r—col. 6			
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
$		$		$		$		$		$		
190,502.77	4.63	294,188.94	7.15	3,873,419.13	94.14			241,111.49	5.86	3,753,630.29	18.76	24
				43,437.82	27.21							25
7,488.25	4.69	11,565.33	7.25	106,691.13	66.85			9,480.08	5.94			26
197,991.02	4.63	305,754.27	7.15	4,023,548.08	94.14			250,591.57	5.86	3,753,630.29	17.38	27
658.84	4.69	1,018.46	7.25	13,213.26	94.06			834.43	5.94			28
197,332.18	4.63	304,735.81	7.15	4,010,461.81	94.14			249,630.15	5.86	3,753,630.29	17.50	29
1.69		4.12						7.08				30
												31
												32
												33
												34
												35

310 *Exhibit No. 744, revised, received in evidence*

311 **Post Office Department, Exhibit No. 744**

Total car miles, car-foot miles, income account, investment in property, and
Florida

Item no.	Item	Total amounts	Freight	Per cent to total col. 3	Passenger (including express and mail)	Per cent to total col. 3	Plan no. 1	
							Passenger (including baggage and miscel.)	Per cent to total passenger col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Car miles:							
1	As operated, year ending December 31, 1930.	8,773,449	7,812,176	89.04	961,273	10.96		
2	Equated 60 foot (Total line 3 divided by 60).				897,962	100	678,321	75.54
	Car-foot miles:							
3	For the year ending December 31, 1930.				53,877,700	100	40,699,215	75.54
	Income Account:	$	$		$		$	
4	Railway operating revenues	1,693,270.86	1,560,552.73	92.05	115,590.10	6.82	64,038.66	55.40
5	Total railway operating expenses allocated and apportioned	1,502,810.57	1,182,214.03	78.67	314,235.29	20.91	237,523.48	75.59
6	Net revenue from railway operations.	192,460.29	378,338.70	196.58	[1] 198,645.19	103.21	[1] 173,484.82	87.33
7	Railway tax accruals	75,860.96	59,679.82	78.67	15,862.53	20.91	11,990.49	75.59
8	Uncollectible railway revenues.	32.49	32.49	100				
9	Railway operating income	116,566.84	318,626.39	273.34	[1] 214,507.72	184.02	[1] 185,475.31	86.47
10	Equipment and joint facility rents—Net balance.	[1] 26,827.59	[1] 16,107.78	60.04	[1] 10,719.81	39.96	[1] 8,103.10	75.59
11	Net railway operating income.	89,739.25	302,518.61	337.11	[1] 225,227.53	250.98	[1] 193,578.41	85.95
12	Per cent of net income (11) to operating revenues (4).	5.29	19.39					
13	Operating ratio: Per cent of expenses (5) to revenues (4).	88.65	75.76		271.85		370.91	
	Car-mile revenue, expense, etc.—Prorated 60 foot:	*Cents*	*Cents*		*Cents*		*Cents*	
14	Railway operating revenues (4).	19.32	19.97		12.87		9.44	
15	Total railway operating expenses (5).	17.13	15.13		34.99		35.02	
16	Net revenue from railway operations (6).	2.19	4.84		[1] 22.12		[1] 25.58	
17	Expenditures out of operating revenues (5, 7, 8, and 10).	18.30	16.10		37.95		37.98	
18	Net income (11)	1.02	3.87		[1] 25.08		[1] 28.54	
	Car-foot mile revenue, expense, etc.:							
19	Railway operating revenues (4).				.214		.157	
20	Total railway operating expenses (5).				.583		.583	
21	Net revenue from railway operations (6).				[1].369		[1].426	
22	Expenditures out of operating revenues (5, 7, 8, and 10).				.632		.633	
23	Net income (11)				[1].418		[1].476	

[1] Indicated red figures.

July 23, 1932, two pages, follows

(Revised) (I. C. C. Docket No. 9200)

selected statistics, for the year ended December 31, 1930. Georgia & Company

Plan no. 1				Plan no. 2						Not related to this inquiry	Per cent to total col. 3	Item no.
Express	Per cent to total passenger col. 6	Mail	Per cent to total passenger col. 6	Passenger (including baggage and miscel.)	Per cent to total passenger col. 6	Express	Per cent to total passenger col. 6	Mail	Per cent to total passenger col. 6			
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
												1
144,661	16.11	74,980	8.35	726,631	80.92	59,355	6.61	111,976	12.47			2
8,679,697 $	16.11	4,498,788 $	8.35	43,597,835 $	80.92	3,561,316 $	6.61	6,718,549 $	12.47	$		3
12,463.98	10.78	39,087.46	33.82	64,038.66	55.40	12,463.98	10.78	39,087.46	33.82	19,128.03	1.13	4
50,524.86	16.08	26,186.95	8.33	254,400.43	80.96	20,728.38	6.60	39,106.48	12.44	6,361.25	.42	5
[1] 38,060.88	19.16	12,900.51	6.49	[1] 190,361.77	95.83	[1] 8,284.40	4.16	[1] 19.02	.01	12,766.78	6.63	6
2,550.69	16.08	1,321.35	8.33	12,842.30	80.96	1,046.93	6.60	1,973.30	12.44	318.61	.42	7
												8
[1] 40,611.57	18.93	11,579.16	5.40	[1] 203,204.07	94.73	[1] 9,311.33	4.34	[1] 1,992.32	.93	12,448.17	10.68	9
[1] 1,723.75	16.08	[1] 892.96	8.33	[1] 8,678.76	80.96	[1] 707.51	6.60	[1] 1,333.54	12.44			10
[1] 42,335.32	18.79	10,686.20	4.74	[2] 211,882.83	94.08	[1] 10,018.84	4.45	[1] 3,325.86	1.47	12,448.17	13.87	11
		27.34										12
405.37		67.00		397.26		166.31		100.05				13
Cents 8.62		*Cents* 52.13		*Cents* 8.81		*Cents* 21.00		*Cents* 34.91				14
34.93		34.92		35.01		34.92		34.92				15
[1] 26.31		17.21		[1] 26.20		[1] 13.92		[1] .01				16
37.88		37.88		37.97		37.88		37.88				17
[1] 29.26		14.25		[1] 29.16		[1] 16.88		[1] 2.97				18
.143		.869		.147		.350		.582				19
.582		.582		.584		.582		.582				20
[1] .439		.287		[1] .437		[1] .232						21
.631		.631		.633		.631		.631				22
[1] .488		.238		[1] .486		[1] .281		[1] .049				23

*Total expense allocated to passenger direct (Form R. M. P. M.).

Post Office Department, Exhibit No. 744

Total car miles, car-foot miles, income account, investment in property, and Florida

Item no.	Item	Total amounts	Freight	Per cent to total col. 3	Passenger (including express and mail)	Per cent to total col. 3	Plan no. 1	
							Passenger (including baggage and miscel.)	Per cent to total passenger col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Investment in property (December 31, 1930):	$	$		$		$	
24	Road investment—Apportioned.	20,153,534.26	12,505,146.10	62.05	3,323,790.58	16.4	2,512,453.30	75.59
25	Equipment investment—Allocated.	1,583,869.29	1,426,504.74	90.06	157,364.55	9.9	41,842.83	99.47
26	Equipment investment—Apportioned..						75,489.59	65.48
27	Total	21,737,403.55	13,931,650.84	64.09	3,481,155.13	16.01	2,629,785.72	75.54
28	Equipment depreciation	185,939.61	167,457.21	90.06	18,482.40	9.94	13,780.48	74.56
29	Total investment in road and equipment.	21,551,463.94	13,764,193.63	63.87	3,462,672.73	16.06	2,616,005.24	75.55
30	Per cent of net income (11) to property investment (29).		2.20					
31	Passenger service train revenue (I. C. C. 103) exclusive of mail and express revenue.							
32	Same per passenger 60-foot car-mile (Item 2).							
33								
34								
35								

(Revised) (I. C. C. Docket No. 9200)—Continued

selected statistics, for the year ended December 31, 1930, Georgia & Company—Continued

Plan no. 1				Plan no. 2								
Express	Per cent to total passenger col. 6	Mail	Per cent to total passenger col. 6	Passengers (including baggage and miscel.)	Per cent to total passenger col. 6	Express	Per cent to total passenger col. 6	Mail	Per cent to total passenger col. 6	Not related to this inquiry	Per cent to total col. 3	Item no.
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
$		$		$		$		$		$		
534,465.53	16.08	276,871.75	8.33	2,690,940.85	80.96	219,370.18	6.60	413,479.55	12.44	4,324,597.58	21.48	24
		225.00	.53	41,842.83	99.47			225.00	.53			25
26,219.77	22.74	13,587.36	11.78	84,251.32	78.07	10,754.09	9.33	20,291.40	17.60			26
560,685.30	16.11	290,684.11	8.35	2,817,035.00	80.92	230,124.18	6.61	433,995.95	12.47	4,324,597.58	19.90	27
3,079.17	16.66	1,622.75	8.78	14,809.95	80.13	1,262.35	6.83	2,410.10	13.04			28
557,606.13	16.10	289,061.36	8.34	2,802,225.05	80.93	228,861.83	6.61	431,585.85	12.46	4,323,597.58	20.07	29
		3.70										30
												31
												32
												33
												34
												35

312 Received in evidence. Docket 9200. July 23, 1932.

Post Office Department, Exhibit No. 744

Total car miles, car-foot miles, income account, investment in property, and R. R.

Item no.	Item	Total amounts	Freight	Per cent to total col. 3	Passenger (including express and mail)	Per cent to total col. 3	Plan no. 3	
							Passenger (including baggage and miscellaneous)	Per cent to total passenger col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Car miles:							
1	As operated, year ending December 31, 1930	8,773,449	7,812,176	89.04	961,273	10.96		
2	Equated 60 foot (Total line 3 divided by 60)				897,962	100	782,484	87.14
	Car-foot miles:							
3	For the year ending December 31, 1930				53,877,700	100	46,949,028	87.14
	Income account:	$	$		$		$	
4	Railway operating revenues	1,695,270.86	1,560,552.73	92.05	115,590.10	6.82	64,038.66	55.40
5	Total railway operating expenses allocated* and apportioned	1,502,810.57	1,182,214.03	78.67	314,235.29	20.91	273,905.67	87.17
6	Net revenue from railway operations	192,460.29	378,338.70	196.58	[1] 198,645.19	103.21	[1] 209,867.01	105.65
7	Railway tax accruals	75,860.96	59,679.82	78.67	15,862.53	20.91	13,827.37	87.17
8	Uncollectible railway revenues	32.49	32.49	100				
9	Railway operating income	116,566.84	318,626.39	273.34	[1] 214,507.72	184.02	[1] 223,694.38	104.28
10	Equipment and joint facility rents—Net balance	[1] 26,827.59	[1] 16,107.78	60.04	[1] 10,719.81	39.96	[1] 9,344.46	87.17
11	Net railway operating income	89,739.25	302,518.61	337.11	[1] 225,227.53	250.98	[1] 233,038.84	103.47
12	Per cent of net income (11) to operating revenues (4)	5.29	19.39					
13	Operating ratio: Per cent of expenses (5) to revenues (4)	88.65	75.76		271.85		427.72	
	Car-mile revenue, expense, etc.—Prorated 60 foot:	*Cents*	*Cents*		*Cents*		*Cents*	
14	Railway operating revenues (4)	19.32	19.97		12.87		8.18	
15	Total railway operating expenses (5)	17.13	15.13		34.99		35.00	
16	Net revenue from railway operations (6)	2.19	4.84		[1] 22.12		[1] 26.82	
17	Expenditures out of operating revenues (5, 7, 8, and 10)	18.30	16.10		37.95		37.96	
18	Net income (11)	1.02	3.87		[1] 25.08		[1] 29.78	
	Car-foot mile revenue, expense, etc.:							
19	Railway operating revenues (4)				.214		.136	
20	Total railway operating expenses (5)				.583		.583	
21	Net revenue from railway operations (6)				[1] .369		[1] .447	
22	Expenditures out of operating revenues (5, 7, 8, and 10)				.632		.632	
23	Net income (11)				[1] .418		[1] .496	

*Total expense allocated to passenger direct (Form R. M. P. 51).
[1] Indicated red figures.

(Revised) (I. C. C. Docket No. 9200)—Continued

selected statistics, for the year ended December 31, 1931. Georgia & Florida Company—Continued

Plan no. 3				With no charge of empty space to mail								
Express	Per cent to total passenger col. 6	Mail	Per cent to total passenger col. 6	Passenger (including baggage and miscellaneous)	Per cent to total passenger col. 6	Express	Per cent to total passenger col. 6	Mail	Per cent to total passenger col. 6	Not related to this inquiry	Per cent to total col. 3	Item no.
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
												1
39,959	4.45	75,519	8.41	835,733	93.07			62,229	6.93			2
2,397,558	4.45	4,531,114	8.41	50,143,975	93.07			3,733,725	6.93			3
$		$		$		$		$		$		
12,463.98	10.78	39,087.46	33.82	76,502.64	66.18			39,087.46	33.82	19,128.03	1.13	4
13,955.65	4.44	26,373.97	8.39	292,501.99	93.08			21,733.30	6.92	6,361.25	.42	5
[1] 1,491.67	.75	12,713.49	6.40	[1] 215,999.35	108.74			17,354.16	8.74	12,766.78	6.63	6
704.29	4.44	1,330.87	8.39	14,764.84	93.08			1,097.69	6.92	318.61	.42	7
												8
[1] 2,195.96	1.02	11,382.62	5.30	[1] 230,764.19	107.58			16,256.47	7.58	12,448.17	10.68	9
[1] 475.96	4.44	[1] 899.39	8.39	[1] 9,978.00	93.08			[1] 741.81	6.92			10
[1] 2,671.92	1.18	10,483.23	4.65	[1] 240,742.19	106.89			15,514.66	6.89	12,448.17	13.87	11
		26.82						39.69				12
111.97		67.47		382.34				55.60				13
Cents		*Cents*		*Cents*		*Cents*		*Cents*				
31.19		51.75		9.15				62.81				14
34.92		34.92		35.00				34.92				15
[1] 3.73		16.83		[1] 25.85				27.89				16
37.86		37.87		37.96				37.88				17
[1] 6.69		13.88		[1] 28.81				24.93				18
.520		.862		.152				1.047				19
.582		.582		.583				.582				20
[1].062		.280		[1].431				.465				21
.631		.631		.632				.631				22
[1].111		.231		[1].480				.416				23

Post Office Department, Exhibit No. 744

Total car miles, car-foot miles, income account, investment in property, and R. R.

Item no.	Item	Total amounts	Freight	Per cent to total col. 3	Passenger (including express and mail)	Per cent to total col. 3	Plan no. 3	
							Passenger (including baggage and miscellaneous)	Per cent to total passenger col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Investment in property (December 31, 1930):	$	$		$		$	
24	Road investment—Apportioned	20,153,534.28	12,505,146.10	62.05	3,323,790.58	16.49	2,897,348.25	87.17
25	Equipment investment—Allocated	1,583,869.29	1,426,504.74	90.06	157,364.55	9.94	41,842.83	99.47
26	Equipment investment—Apportioned						94,370.47	81.85
27	Total	21,737,403.55	13,931,650.84	64.09	3,481,155.13	16.01	3,033,561.55	87.14
28	Equipment depreciation	185,939.61	167,457.21	90.06	18,482.40	9.94	15,998.37	86.56
29	Total investment in road and equipment	21,551,463.94	13,764,193.63	63.87	3,462,672.73	16.06	3,017,563.18	87.14
30	Per cent of net income (11) to property investment (29)	.42	2.20					
31	Passenger train service revenue (I. C. C. 103) exclusive of mail and express revenue							
32	Same per passenger 60-foot car-mile (Item 2)							
33								
34								
35								

(Revised) (I. C. C. Docket No. 9200)—Continued

selected statistics, for the year ended December 31, 1931, Georgia & Company—Continued

Plan no.				With no charge of empty space to mail						Not related to this inquiry	Per cent to total col. 1	Item no.
Express	Per cent to total passenger col. 6	Mail	Per cent to total passenger col. 6	Passenger (including baggage and miscellaneous)	Per cent to total passenger col. 6	Express	Per cent to total passenger col. 6	Mail	Per cent to total passenger col. 6			
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
$		$		$		$		$		$		
147,576.30	4.44	278,866.03	8.39	3,093,784.27	93.08			230,006.31	6.92	4,324,597.58	21.46	24
		225.00	.53	41,842.83	99.47			225.00	.53			25
7,245.01	6.28	13,681.24	11.87	104,016.36	90.22			11,280.36	9.78			26
154,821.31	4.45	292,772.27	8.41	3,239,643.46	93.06			241,511.67	6.94	4,324,597.58	19.90	27
850.19	4.60	1,633.84	8.84	17,131.34	92.69			1,351.06	7.31			28
153,971.12	4.45	291,138.43	8.41	3,222,512.12	93.06			240,160.61	6.94	4,324,597.58	20.07	29
		3.60						5.14				30
												31
												32
												33
												34
												35

313 *Exhibit No. 745, revised, received in evidence*

314 Post Office Department, Exhibit No. 745

Total car miles, car-foot miles, income account, investment in property, and R. R.

Item no.	Item	Total amounts	Freight	Per cent to total—col. 3	Passenger, (including express and mail)	Per cent to total—col. 3	Plan no. 1	
							Passenger, (including baggage and miscel.)	Per cent to total pass'r—col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Car miles:							
1	As operated, year ending December 31, 1931.	7,832,089	6,964,125	88.92	867,964	11.08		
2	Equated 60 foot (Total line 3 divided by 60).				799,423	100.00	598,608	74.88
	Car-foot miles:							
3	For the year ending December 31, 1931.				47,965,379	100.00	35,916,476	74.88
	Income account:	$	$		$		$	
4	Railway operating revenues	1,358,327.03	1,261,628.15	92.88	79,643.93	5.86	36,322.91	45.61
5	Total railway operating expenses allocated* and apportioned.	1,334,577.59	1,042,948.07	78.15	284,667.46	21.33	213,484.31	74.99
6	Net revenue from railway operations.	23,749.44	218,680.08	920.78	[1] 205,023.53	863.28	[1] 177,161.40	6.814
7	Railway tax accruals	82,665.01	64,602.70	78.15	17,632.45	21.33	13,222.58	74.99
8	Uncollectible railway revenues.	253.35	253.35	100.00				
9	Railway operating income	[1] 59,168.92	153,824.03	259.97	[1] 222,655.98	376.30	[1] 190,383.98	85.51
10	Equipment and joint facility rents—Net balance.	[1] 32,306.01	[1] 19,333.11	59.84	[1] 12,972.90	40.16	[1] 9,728.38	74.99
11	Net railway operating income.	[1] 91,474.93	134,490.92	147.02	[1] 235,628.88	257.58	[1] 200,112.36	84.93
12	Per cent of net income (11) to operating revenues (4).		10.66					
13	Operating ratio: Per cent of expenses (5) to revenues (4).	98.25	82.67		357.43		587.74	
	Car-mile revenue, expense, etc. Prorated 60 foot:	*Cents*	*Cents*		*Cents*		*Cents*	
14	Railway operating revenues (4).	17.34	18.11		9.98		6.07	
15	Total railway operating expenses (5).	17.04	14.97		35.67		35.66	
16	Net revenue from railway operations (6).	.30	3.14		[1] 25.69		[1] 29.59	
17	Expenditures out of operating revenues (5, 7, 8, and 10).	18.51	16.18		39.50		39.50	
18	Net income (11)	[1] 1.17	1.93		[1] 29.52		[1] 33.43	
	Car-foot mile revenue, expense, etc.:							
19	Railway operating revenues (4).				.166		.101	
20	Total railway operating expenses (5).				.594		.594	
21	Net revenue from railway operations (6).				[1] .428		[1] .493	
22	Expenditures out of operating revenues (5, 7, 8, and 10).				.658		.658	
23	Net income (11)				[1] .492		[1] .557	

* Total expense allocated to passenger direct (Form R. M. P. 51).
[1] Indicated red figures.

July 23, 1932, two pages, follows

(Revised) (I. C. C. Docket No. 9200)

selected statistics, for the year ended December 31, 1931. Georgia & Florida Company

Plan no. 1				Plan no. 2						Not related to this inquiry	Per cent to total—col. 3	Item no.
Express	Per cent to total pass'g'r—col. 6	Mail	Per cent to total pass'g'r—col. 6	Passenger, (including baggage and miscel.)	Per cent to total pass'g'r—col. 6	Express	Per cent to total pass'g'r—col. 6	Mail	Per cent to total pass'g'r—col. 6			
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
												1
129,187	16.16	71,628	8.96	642,336	80.35	53,481	6.69	103,606	12.96			2
7,751,205	16.16	4,297,698	8.96	38,540,182	80.35	3,208,884	6.69	6,216,313	12.96			3
$		$		$		$		$		$		
7,593.01	9.53	35,728.01	44.86	36,322.91	45.61	7,593.01	9.53	35,728.01	44.86	17,054.95	1.26	4
45,792.98	16.09	25,390.17	8.92	228,984.78	80.44	18,957.61	6.66	36,725.07	12.90	6,962.06	.52	5
[1] 38,199.97	18.63	10,337.84	5.04	[1] 192,661.87	93.97	[1] 11,364.60	5.54	[1] 997.06	.49	10,092.89	42.50	6
2,837.06	16.09	1,572.81	8.92	14,183.54	80.44	1,174.32	6.66	2,274.59	12.90	429.86	.52	7
												8
[1]41,037.031	8.43	8,765.03	3.94	[1]206,845.419	2.90	[1]12,538.92	5.63	[1]3,271.65	1.47	9,663.03	16.33	9
[1] 2,087.341	6.09	1,157.18	8.92	[1] 10,435.408	0.44	[1] 864.00	6.66	[1] 1,673.501	2.90			10
[1]43,124.371	8.30	7,607.85	3.23	[1] 217,280.81	92.21	[1] 13,402.92	5.69	[1] 4,945.15	2.10	9,663.03	10.56	11
		21.29										12
603.09		71.07		630.41		249.67		102.79				13
Cents		*Cents*		*Cents*		*Cents*		*Cents*				
5.88		49.88		5.66		14.20		34.49				14
35.45		35.45		35.65		35.45		35.45				15
[1] 29.57		14.43		[1] 29.99		[1] 21.25		[1] .96				16
39.26		39.26		39.48		39.26		39.26				17
[1] 33.38		10.62		[1] 33.82		[1] 25.06		[1] 4.77				18
.098		.831		.094		.237		.575				19
.591		.591		.594		.591		.591				20
[1] .493		.240		[1] .500		[1] .354		[1] .016				21
.654		.654		.658		.655		.654				22
[1] .556		.177		[1] .564		[1] .419		[1] .079				23

Post Office Department, Exhibit No. 745

Total car miles, car-foot miles, income account, investment in property, and R. R.

Item no.	Item	Total amounts	Freight	Per cent to total, col. 3	Passenger (including express and mail)	Per cent to total, col. 3	Plan no. 1	
							Passenger (including baggage and miscel.)	Per cent to total passenger, col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Investment in property (December 31, 1931):	$	$		$		$	
24	Road investment—Apportioned	20,205,052.74	12,462,884.39	61.68	3,401,578.04	16.84	2,550,843.37	74.99
25	Equipment investment—Allocated	1,580,912.09	1,422,274.08	89.97	158,638.01	10.03	39,575.87	99.43
26	Equipment investment—Apportioned						74,507.53	62.70
27	Total	21,785,964.83	13,885,158.47	63.74	3,560,216.05	16.34	2,664,926.77	74.85
28	Equipment depreciation	233,114.31	209,732.94	89.97	23,381.37	10.03	16,813.54	71.91
29	Total investment in road and equipment	21,552,850.52	13,675,425.53	63.45	3,536,834.68	16.41	2,648,113.23	74.87
30	Per cent of net income (11) to property investment (29)		.98					
31	Passenger service train revenue (I. C. C. 103) exclusive of mail and express revenue							
32	Same per passenger 60-foot car-mile (Item 2)							
33								
34								
35								

(Revised) (I. C. C. Docket No. 9200)—Continued

selected statistics, for the year ended December 31, 1931. Georgia & Florida Company—Continued

Plan no. 1				Plan no. 2						Not related to this inquiry	Per cent to total, col. 3	Item No.
Express	Per cent to total passenger, col. 6	Mail	Per cent to total passenger, col. 6	Passenger including baggage and miscel.)	Per cent to total passenger, col. 6	Express	passenger, col. 6 Per cent to total	Mail	Per cent to total passenger, col. 6			
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
$		$		$		$		$				
547,313.91	16.09	303,420.76	8.92	2,736,229.37	80.44	226,545.10	6.66	438,903.57	12.96	4,340,590.31	21.48	24
----------	-----	225.00	.57	39,575.87	99.43	----------	-----	225.00	.57	----------	-----	25
29,896.74	25.15	14,432.87	12.14	85,133.87	71.64	12,487.98	10.51	21,215.29	17.85	----------	-----	26
577,210.65	16.21	318,078.63	8.94	2,860,939.11	80.36	239,033.08	6.71	460,243.86	12.93	4,340,590.31	19.92	27
4,407.39	18.85	2,160.44	9.24	18,380.10	78.61	1,840.11	7.87	3,161.16	13.52	----------	-----	28
572,803.26	16.20	315,918.19	8.93	2,842,559.01	80.37	237,192.97	6.71	457,082.70	12.92	4,340,590.31	20.14	29
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315 Post Office Department, Exhibit No. 745

Total car miles, car-foot miles, income account, investment in property, and R. R.

Item no.	Item	Total amounts	Freight	Per cent to total, col. 3	Passenger (including express and mail)	Per cent to total, col. 3	Plan no. 1	
							Passenger (including baggage and miscel.)	Per cent to total passenger, col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Car miles:							
1	As operated, year ending December 31, 1931.	7,832,089	6,964,125	88.92	867,964	11.08	----------	------
2	Equated 60 foot (Total line 3 divided by 60).	----------	----------	------	799,423	100.	598,608	74.88
	Car-foot miles:							
3	For the year ending December 31, 1931.	----------	----------	------	47,965,379	100.	35,916,476	74.88
	Income account:	$	$		$		$	
4	Railway operating revenues	1,358,327.03	1,261,628.15	92.88	79,643.93	5.86	36,322.91	45.61
5	Total railway operating expenses allocated * and apportioned.	1,334,577.59	1,042,948.07	78.15	284,667.46	21.33	213,484.31	74.99
6	Net revenue from railway operations.	23,749.44	218,680.08	920.78	[1] 205,023.53	863.28	[1] 177,161.40	86.41
7	Railway tax accruals	82,655.01	64,602.70	78.15	17,632.45	21.33	13,222.58	74.99
8	Uncollectible railway revenues.	253.35	253.35	100.	----------	------	----------	------
9	Railway operating income	[1] 59,168.92	153,824.03	259.97	[1] 222,655.98	376.30	[1] 190,383.98	85.51
10	Equipment and joint facility rents—Net balance.	[1] 32,306.01	[1] 19,333.11	59.84	[1] 12,972.90	40.16	[1] 9,728.38	74.99
11	Net railway operating income.	[1] 91,474.93	134,490.92	147.02	[1] 235,628.88	257.58	[1] 200,112.36	84.93
12	Per cent of net income (11) to operating revenues (4).	----------	10.66	------	----------	------	----------	------
13	Operating ratio: Per cent of expenses (5) to revenues (4).	98.25	82.67	------	357.43	------	587.74	------
	Car-mile revenue expense, etc.; prorated 60 foot.	*Cents*	*Cents*		*Cents*		*Cents*	
14	Railway operating revenues (4).	17.34	18.11	------	9.98	------	6.07	------
15	Total railway operating expenses (5).	17.04	14.97	------	35.67	------	35.66	------
16	Net revenue from railway operations (6).	.30	3.14	------	[1] 25.69	------	[1] 29.59	------
17	Expenditures out of operating revenues (5, 7, 8, and 10).	16.51	16.18	------	39.50	------	39.50	------
18	Net income (11)	[1] 1.17	1.93	------	[1] 29.52	------	[1] 33.43	------
	Car-foot mile revenue, expense, etc.							
19	Railway operating revenues (4).	----------	----------	------	.166	------	.101	------
20	Total railway operating expenses (5).	----------	----------	------	.594	------	.594	------
21	Net revenue from railway operations (6).	----------	----------	------	[1] .428	------	[1] .493	------
22	Expenditures out of operating revenues (5, 7, 8, and 10).	----------	----------	------	.658	------	.658	------
23	Net income (11)	----------	----------	------	[1] .492	------	[1] .557	------

*Total expense allocated to passenger direct (Form R., M. P. 51).
[1] Indicated red figures.

(Revised) (I. C. C. Docket No. 9200)—Continued

selected statistics, for the year ended December 31, 1931. Georgia & Florida Company—Continued

Plan no. 1				Plan no. 2								
Express	Per cent to total passenger, col. 6	Mail	Per cent to total passenger, col. 6	Passenger (including baggage and miscel.)	Per cent to total passenger, col. 6	Express	Per cent to total passenger, col. 6	Mail	Per cent to total passenger, col. 6	Not related to this inquiry	Per cent to total, col. 3	Item no.
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
												1
129,187	16.16	71,628	8.96	642,336	80.35	53,481	6.69	103,606	12.96			2
7,751,205	16.16	4,297,698	8.96	38,540,182	80.35	3,208,884	6.69	6,216,313	12.96			3
$ 7,593.01	9.53	$ 35,728.01	44.86	$ 36,322.91	45.61	$ 7,593.01	9.53	$ 35,728.01	44.86	$ 17,054.95	1.26	4
45,792.98	16.09	26,390.17	8.92	228,984.78	80.44	18,987.61	6.66	36,725.07	12.90	6,962.06	.52	5
[1] 38,199.97	18.63	10,337.84	5.04	[1] 192,661.87	93.97	[1] 11,364.60	5.54	[1] 997.06	.49	10,092.89	42.50	6
2,837.06	16.09	1,572.81	8.92	14,183.54	80.44	1,174.32	6.66	2,274.59	12.90	429.86	.52	7
												8
[1] 41,037.03	18.43	8,765.03	3.94	[1] 206,845.41	92.90	[1] 12,538.92	5.63	[1] 3,271.65	1.47	9,663.03	16.33	9
[1] 2,087.34	16.09	1,157.18	8.92	[1] 10,435.40	80.44	[1] 864.00	6.66	[1] 1,673.50	12.90			10
[1] 43,124.37	18.30	7,607.85	3.23	[1] 217,280.81	92.21	[1] 13,402.92	5.69	[1] 4,945.15	2.10	9,663.03	10.56	11
		21.29										12
603.09		71.07		630.41		249.67		102.79				13
Cents 5.88		Cents 49.88		Cents 5.66		Cents 14.20		Cents 34.49		Cents		14
35.45		35.45		35.65		35.45		35.45				15
[1] 29.57		14.43		[1] 29.99		[1] 21.25		1.96				16
39.26		39.26		39.48		39.26		39.26				17
[1] 33.38		10.62		[1] 33.82		[1] 25.06		[1] 4.77				18
.098		.831		.094		.237		.575				19
.591		.591		.594		.591		.591				20
[1] .493		.240		[1] .500		[1] .354		[1] .016				21
.654		.654		.658		.655		.654				22
[1] .556		.177		[1] .564		[1] .418		[1] .079				23

Post Office Department, Exhibit No. 745

Total car miles, car-foot miles, income account, investment in property, and R. R.

Item no.	Item	Total amounts	Freight	Percent to total col. 3	Passenger (including express and mail)	Percent to total col. 3	Plan No. 1	
							Passenger (including baggage and miscel.)	Percent to tot'l pass'g'r—col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Car miles:							
	Investment in property (December 31, 1931):	$	$		$		$	
24	Road investment—Apportioned.	20,205,052.74	12,462,884.39	61.68	3,401,578.04	16.84	2,550,843.37	74.99
25	Equipment investment—Allocated.	1,580,912.09	1,422,274.08	89.97	158,638.01	10.03	39,575.87	99.43
26	Equipment investment—Apportioned.						507.53	62.70
27	Total	21,785,964.83	13,885,158.47	63.74	3,560,216.05	16.34	2,664,926.77	74.85
28	Equipment depreciation	233,114.31	209,732.94	89.97	23,381.37	10.03	16,813.54	71.91
29	Total investment in road and equipment.	21,552,850.52	13,675,425.53	63.45	3,536,834.68	16.41	2,648,113.23	74.87
30	Per cent of net income (11) to property investment (29).		.98					
31	Passenger service train-revenue (I. C. C. 163) exclusive of mail and express revenue.							
32	Same per passenger 60-foot car-mile (Item 2).							
33								
34								
35								

(Revised) (I. C. C. Docket No. 9200)—Continued

selected statistics, for the year ended December 31, 1931. Georgia & Florida Company—Continued

Plan No. 1				Plan No. 2						Not related to this inquiry	Percent to total col. 3	Item no.
Express	Percent to total pass'g'r—col. 6	Mail	Percent to total pass'g'r—col. 6	Passenger (including baggage and miscel.)	Percent to total pass'g'r col. 6	Express	Percent to total pass'g'r—col. 6	Mail	Percent to total pass'g'r—col. 6			
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
$		$		$		$		$		$		
547,313.91	16.09	303,420.76	8.92	2,736,229.37	80.44	226,545.10	6.66	438,803.57	12.90	4,340,590.31	21.48	24
		225.00	.57	39,575.87	99.43			225.00	.57			25
29,896.74	25.15	14,432.87	12.14	85,133.87	71.64	12,487.98	10.51	21,215.29	17.85			26
577,210.65	16.21	318,078.63	8.94	2,860,939.11	80.36	239,033.08	6.71	460,243.86	12.93	4,340,590.31	19.92	27
4,407.39	18.85	2,160.44	9.24	18,380.10	78.61	1,840.11	7.87	3,161.16	13.52			28
572,803.26	16.20	315,918.19	8.93	2,842,559.01	80.37	237,192.97	6.71	457,082.70	12.92	4,340,590.31	20.14	29
			2.41									30
												31
												32
												33
												34
												35

316 *Exhibit No. 746, revised, received in evidence*

317 Post Office Department, Exhibit No. 746

Total car miles, car-foot miles, income account, investment in property, and for information only. Georgia

Item no.	Item	Total amounts	Freight	Percent to total col. 3	Passenger (including express and mail)	Percent to total col. 3	Plan No. 1	
							Passenger (including baggage and miscel.)	Percent to total pass'g'r col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Car miles:							
1	As operated, year ending December 31, 1931.	7,832,089	6,964,125	88.92	867,964	11.08		
2	Equaled 60 foot (Total line 3 divided by 60).				799,423	100	581,580	72.75
	Car-foot miles:							
3	For the year ending December 31, 19—.				47,965,379	100	34,894,813	72.75
	Income account:	$	$		$		$	
4	Railway operating revenues	1,358,327.03	1,261,628.15	92.88	79,643.93	5.86	36,322.91	45.61
5	Total railway operating expenses allocated* and apportioned.	1,334,577.59	1,042,948.07	78.15	284,667.46	21.33	207,448.47	72.87
6	Net revenue from railway operations.	23,749.44	218,680.08	920.78	[1] 205,023.53	863.28	[1] 171,125.56	83.47
7	Railway tax accruals	82,665.01	64,602.70	78.15	17,632.45	21.33	12,848.77	72.87
8	Uncollectible railway revenues.	253.35	253.35	100				
9	Railway operating income	[1] 59,168.92	153,824.03	259.97	[1] 222,655.98	376.30	[1] 183,974.33	82.63
10	Equipment and joint facility rents—Net balance.	[1] 32,306.01	[1] 19,333.11	59.84	[1] 12,972.90	40.16	[1] 9,453.35	72.87
11	Net railway operating income.	[1] 91,474.93	134,490.92	147.02	[1] 235,628.88	257.58	[1] 193,427.68	82.09
12	Per cent of net income (11) to operating revenues (4).		10.66					
13	Operating ratio: Percent of expenses (5) to revenues (4).	98.25	82.67		357.43		571.12	
	Car-mile revenue, expense, etc. Prorated 60 foot.	*Cents*	*Cents*		*Cents*		*Cents*	
14	Railway operating revenues (4).	17.34	18.11		9.98		6.26	
15	Total railway operating expenses (5).	17.04	14.97		35.67		35.73	
16	Net revenue from railway operations (6).	.30	3.14		[1] 25.69		[1] 29.47	
17	Expenditures out of operating revenues (5, 7, 8, and 10).	18.51	16.18		39.50		39.57	
18	Net income (11)	[1] 1.17	1.93		[1] 29.52		[1] 33.31	
	Car-foot mile revenue, expense, etc.							
19	Railway operating revenues (4).				0.166		.104	
20	Total railway operating expenses (5).				.594		.595	
21	Net revenue from railway operations (6).				[1] .428		[1] .491	
22	Expenditures out of operating revenues (5, 7, 8, and 10).				.658		.659	
23	Net income (11)				[1] .492		[1] .555	

* Total expense allocated to passenger direct (Form R. M. P. 51).
[1] Indicated red figures.

July 23, 1932, two pages, follows

(Revised) (I. C. C. Docket No. 9200)

selected statistics, for the year ended December 31, 1931; test period unadjusted; & Florida R. R. Company

Plan No. 1				Plan No. 2						Not related to this inquiry	Percent to total col. 3	Item no.
Express	Percent to total pass'g'r—col. 6	Mail	Percent to total pass'g'r—col. 6	Passenger (including baggage and miscel.)	Percent to total pass'g'r—col. 6	Express	Percent to total pass'g'r—col. 6	Mail	Percent to total pass'g'r—col. 6			
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
												1
138,060	17.27	79,783	9.98	623,950	78.05	55,320	6.92	120,153	15.03			2
8,283,621	17.27	4,786,945	9.98	37,436,978	78.05	3,319,204	6.92	7,209,197	15.03			3
$		$		$		$		$		$		
7,593.01	9.53	35,728.01	44.86	36,322.91	45.61	7,593.01	9.53	35,728.01	44.86	17,054.93	1.26	4
48,938.42	17.19	28,280.57	9.94	222,467.22	78.15	19,609.37	6.89	42,590.87	14.96	6,962.06	.52	5
[1] 41,345.41	20.16	7,447.44	3.63	[1] 186,144.31	90.79	[1] 12,016.36	5.86	[1] 6,862.86	3.35	10,092.89	42.50	6
3,031.02	17.19	1,752.66	9.94	13,779.76	78.15	1,214.88	6.89	2,637.81	14.96	429.86	.52	7
												8
[1] 44,376.43	19.93	5,694.78	2.56	[1] 199,924.07	89.79	[1] 13,231.24	5.94	[1] 9,500.67	4.27	9,663.03	16.33	9
[1] 2,230.04	17.19	[1] 1,289.51	9.94	[1] 10,138.32	78.15	[1] 893.83	6.89	[1] 1,940.75	14.96			10
[1] 46,606.47	19.78	4,405.27	1.87	[1] 210,062.39	89.15	[1] 14,125.07	5.99	[1] 11,441.42	4.86	9,663.03	10.56	11
		12.33										12
644.52		79.16		612.47		258.26		119.21				13
Cents		*Cents*		*Cents*		*Cents*		*Cents*		*Cents*		
5.51		44.86		5.53		13.75		29.79				14
35.51		35.51		35.71		35.51		35.51				15
[1] 30.00		9.35		[1] 29.88		[1] 21.76		[1] 5.72				16
39.32		39.33		39.55		39.33		39.32				17
[1] 33.81		5.53		[1] 33.72		[1] 25.58		[1] 9.53				18
0.092		0.747		0.007		0.229		0.496				19
.592		.591		.595		.592		.591				20
1.500		.156		1.498		1.363		1.095				21
.655		.655		.659		.656		.655				22
1.563		.092		1.562		1.427		1.159				23

Post Office Department, Exhibit No. 746

Total car miles, car-foot miles, income account, investment in property, and for information only. Georgia

Item no.	Item	Total amounts	Freight	Percent to total—col. 3	Passenger (including express and mail)	Percent to total—col. 3	Plan no. 1	
							Passenger (including baggage add miscel.)	Percent to total pass'gr—col 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(9)	(9)
	Investment in property (December 31, 1931):	$	$		$		$	
24	Road investment — Apportioned.	20,205,052.74	12,462,884.39	61.68	3,401,578.04	16.84	2,478,729.92	72.87
25	Equipment investment—Allocated.	1,580,912.09	1,422,274.08	89.97	158,638.01	10.03	39,575.87	99.43
26	Equipment investment—Apportioned.						74,287.17	62.51
27	Total	21,785,964.83	13,885,158.47	63.74	3,560,216.05	16.34	2,592,592.96	72.82
28	Equipment depreciation	233,114.31	209,732.94	89.97	23,381.37	10.03	16,783.15	71.78
29	Total investment in road and equipment.	21,552,850.52	13,675,425.53	63.45	5,536,834.68	16.41	2,575,809.81	72.83
30	Per cent of net income (11) to property investment (29).		.98					
31	Passenger service train revenue (I. C. C. 103), exclusive of mail and express revenue.							
32	Same per passenger 60-foot car-mile (Item 2).							
33								
34								
35								

(Revised) (I. C. C. Docket No. 9200)—Continued

selected statistics, for the year ended December 31, 1931; test period unadjusted; & Florida R. R. Company—Continued

Plan no. 1				Plan no. 2						Not related to this inquiry	Percent to total—col. 3	Item no.
Express	Percent to total pass'gr—col 6	Mail	Percent to total pass'gr—col 6	Passenger including) baggage and misel.)	Percent to total pass'gr—col 6	Express	Percent to total pass'gr—col 6	Mail	Percent to total pass'gr—col 6			
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
$		$		$		$		$		$		
584,731.26	17.19	338,116.86	9.94	2,658,333.24	78.15	234,368.73	6.89	508,876.07	14.96	4,340,590.31	21.48	24
		225.00	.57	39,575.87	99.43			225.00	.57			25
28,229.53	23.76	16,320.44	13.73	82,953.59	69.80	11,309.47	9.52	24,574.08	20.68			26
612,960.79	18.62	354,662.30	9.96	2,780,862.70	78.11	245,678.20	6.90	533,675.15	14.99	4,340,590.31	19.92	27
4,159.55	17.79	2,438.67	10.43	18,059.77	77.24	1,667.09	7.13	3,654.51	15.63			28
608,801.24	17.21	352,223.63	9.96	2,762,802.93	78.12	244,011.11	6.90	530,020.64	14.98	4,340,590.31	20.14	29
		1.25										30
												31
												32
												33
												34
												35

318 Post Office Department, Exhibit No. 746

Total car miles, car-foot miles, income account, investment in property, and for information only. Georgia

Item no.	Item	Total amounts	Freight	Percent to total col. 3	Passenger (including express and mail)	Percent to total col. 5	Plan no. 1	
							Passenger (including baggage and miscel.)	Percent to total pass'r col. 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Car miles:							
1	As operated, year ending December 31, 1931.	7,832,089	6,964,125	88.92	867,964	11.08		
2	Equated 60 foot (Total line 3 divided by 60).				799,423	.100	581,580	72.76
	Car-foot miles:							
3	For the year ending December 31, 19—.				47,965,379	100	34,894,813	72.75
	Income account:	$	$		$		$	
4	Railway operating revenues	1,358,327.03	1,261,628.15	92.88	79,643.93	5.86	36,322.91	45.61
5	Total railway operating expenses allocated * and apportioned.	1,334,577.59	1,042,948.07	78.15	284,667.46	21.33	207,448.47	72.87
6	Net revenue from railway operations.	23,749.44	218,680.08	920.78	[1] 205,023.53	863.28	[1] 171,125.56	83.47
7	Railway tax accruals	82,665.01	64,602.70	78.15	17,632.45	21.33	12,848.77	72.87
8	Uncollectible railway revenues.	253.35	253.35	100.				
9	Railway operating income	[1] 59,168.92	153,824.03	259.97	[1] 222,655.98	376.30	[1] 183,974.33	82.63
10	Equipment and joint facility rents—Net balance.	[1] 32,306.01	[1] 19,333.11	59.84	[1] 12,972.90	40.16	[1] 9,453.35	72.87
11	Net railway operating income	[1] 91,474.93	134,490.92	147.02	[1] 235,628.88	257.58	[1] 193,427.68	82.09
12	Percent of net income (11) to operating revenues (4).		10.66					
13	Operating ratio: Percent of expenses (5) to revenues (4).	98.25	82.67		357.43		571.12	
	Car-mile revenue, expense, etc. Prorated 60 foot.	*Cents*	*Cents*		*Cents*		*Cents*	
14	Railway operating revenues (4).	17.34	18.11		9.98		3.26	
15	Total railway operating expenses (5).	17.04	14.97		35.67		35.73	
16	Net revenue from railway operations (6).	.30	3.14		[1] 25.69		[1] 29.47	
17	Expenditures out of operating revenue (5, 7, 8, and 10).	18.51	16.18		39.50		39.57	
18	Net income (11)	[1] 1.17	1.93		[1] 29.52		[1] 33.31	
	Car-foot mile revenue, expense, etc.:							
19	Railway operating revenues (4).				.166		.104	
20	Total railway operating expenses (5).				.594		.595	
21	Net revenue from railway operations (6).				1.428		1.491	
22	Expenditures out of operating revenues (5, 7, 8, and 10).				.658		.659	
23	Net income (11)				1.492		1.555	

[1] Indicated red figures.
* Total expense allocated to passenger direct (Form R. M. P. 51).

(Revised) (I. C. C. Docket No. 9200)—Continued

selected statistics, for the year ended December 31, 1931; test period unadjusted; & Florida R. R. Company—Continued

Plan no. 1				Plan no. 2						Not related to this inquiry	Percent to total col. 3	Item no.
Express	Percent to total pass'g'r col. 6	Mail	Percent to total pass'g'r col. 6	Passenger (including baggage and miscel.)	Percent to total pass'g'r col. 6	Express	Percent to total pass'g'r col. 6	Mail	Percent to total pass'g'r col. 6			
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
												1
138,060	17.27	79,783	9.98	623,950	78.05	55,320	6.92	120,153	15.03			2
8,283,621	17.27	4,786,945	9.98	37,436,978	78.05	3,319,204	6.92	7,209,197	15.03			3
$		$		$		$		$		$		
7,593.01	9.53	35,728.01	44.86	36,322.91	45.61	7,593.01	9.53	35,728.01	44.86	17,054.95	1.26	4
48,938.42	17.39	28,280.77	9.94	222,467.22	78.15	19,609.37	6.89	42,590.57	14.96	6,962.06	.52	5
141,345.41	20.16	7,447.44	3.63	186,144.31	90.79	12,016.36	5.86	6,862.86	3.35	10,092.89	42.50	6
3,881.02	17.19	1,752.66	9.94	13,779.76	78.15	1,214.88	6.89	2,637.81	14.96	429.86	.52	7
												8
44,376.43	19.93	5,694.78	2.56	199,924.07	89.79	13,231.24	5.94	9,500.67	4.27	9,663.03	16.33	9
2,230.04	17.19	1,289.51	9.94	10,138.32	78.15	893.83	6.89	1,940.75	14.96			10
46,606.47	19.78	4,405.27	1.87	210,062.39	89.15	14,125.07	5.99	11,441.42	4.86	9,663.03	10.56	11
		12.33										12
644.52		79.16		612.47		258.26		119.21				13
Cents		*Cents*		*Cents*		*Cents*		*Cents*				
5.51		44.86		5.83		13.75		29.79				14
35.51		35.51		35.71		35.51		35.51				15
30.00		9.35		29.88		21.76		5.72				16
39.32		39.33		39.55		39.33		39.32				17
9.81		5.53		33.72		25.58		9.53				18
.092		.747		.097		.229		.496				19
.592		.591		.595		.592		.591				20
.500		.156		.498		1.363		1.095				21
.655		.655		.659		.656		.655				22
1.563		.092		1.562		1.427		1.159				23

Post Office Department, Exhibit No. 746

Total car miles, car-foot miles, income account, investment in property, and for information only. Georgia

Item no.	Item	Total amounts	Freight	Percent to total col 3	Passenger (including express and mail)	Percent to total col 3	Plan No. 1	
							Passenger (including baggage and miscel)	Percent to total pass'gr col 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Investment in property (December 31, 1931):	$	$		$		$	
24	Road investment—Apportioned.	20,205,052.74	12,462,884.39	61.68	3,401,578.04	16.84	2,478,729.92	72.87
25	Equipment investment—Allocated.	1,580,912.09	1,422,274.08	89.97	158,638.01	10.03	39,575.87	99.43
26	Equipment investment—Apportioned.						74,287.17	62.51
27	Total	21,785,964.83	13,885,158.47	63.74	3,560,216.05	16.34	2,592,592.96	72.82
28	Equipment depreciation	233,114.31	209,732.94	89.97	23,381.37	10.03	16,783.15	71.78
29	Total investment in road and equipment.	21,552,850.52	13,675,425.53	63.54	3,536,834.68	16.41	2,575,809.81	72.83
30	Percent of net income (11) to property investment (29).		.98					
31	Passenger service train revenue (I. C. C. 103) exclusive of mail and express revenue.							
32	Same per passenger 60-foot car-mile (Item 2).							
33								
34								
35								

Revised) (I. C. C. Docket No. 9200)—Continued

elected statistics, for the year ended December 31, 1931; test period unadjusted;
Florida R. R. Company—Continued.

Plan No. 1				Plan No. 2								
Express	Percenttototal pass'g'r col 6	Mail	Percent to total pass'g'r col 6	Passenger (including baggage and miscel.)	Percent to total pass'g'r col 6	Express	Percent to total pass'g'r col 6	Mail	Percent to total pass'g'r col 6	Not related to this inquiry	Percent to total col 3	Item no.
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
$		$		$		$		$		$		
84, 731. 26	17. 19	338, 116. 86	9. 94	2, 658, 333. 24	78. 15	234, 368. 73	6. 89	508, 876. 07	14. 96	4,340,590.31	21. 48	24
		225. 00	. 57	39, 575. 87	99. 43			225. 00	. 57			25
28, 229. 53	23. 76	16, 320. 44	13. 73	82, 953. 59	69. 80	11, 309. 47	9. 52	24, 574. 08	20. 68			26
312, 960. 79	18. 62	354, 662. 30	9. 96	2, 780, 862. 70	78. 11	245, 678. 20	6. 90	533, 675. 18	14. 99	4,340,590.31	19. 92	27
4, 159. 55	17. 79	2, 438. 67	10. 43	18, 059. 77	77. 24	1, 667. 09	7. 13	3, 654. 51	15. 63			28
308, 801. 24	17. 21	352, 223. 63	9. 96	2, 762, 802. 93	78. 12	244, 011. 11	6. 90	530, 020. 64	14. 98	4,340,590.31	20. 14	29
		1. 25										30
												31
												32
												33
												34
												35

319 *Exhibit No. 747, two*

320 Post Office Department Exhibit

Exhibit showing for 69 class I railroads between 100 and 700 miles in

[Basic figures are taken from

Railroads	Miles of road operated	Passenger car-miles	Total passenger revenue	Total passenger expenses	Total Operating income	Railway tax accruals
Georgia & Florida	487.74	961,273	$115,590.10	$314,235.29	D 198,645.19	$15,862.53
Akron, Canton & Youngstown	171.31	205,660	20,211.00	74,950.84	D 54,739.84	1,829.38
Alabama Great Southern	315.14	6,643,303	1,619,144.18	1,697,925.17	D 78,480.99	172,987.17
Ann Arbor	293.86	1,263,665	265,183.29	468,476.65	D 203,293.36	36,445.65
Atlanta & West Point	93.19	2,210,231	688,376.37	706,080.60	D 17,704.23	49,857.60
Atlanta, Birmingham & Coast	639.88	3,107,001	415,445.04	920,347.91	D 504,902.87	40,265.14
Atlantic City R. R.	163.94	5,008,614	1,698,653.50	2,186,360.68	D 487,707.18	338,495.14
Beaumont, Sour Lake & Western	153.24	1,811,602	375,352.99	775,435.69	D 400,082.70	13,967.88
Berserher & Lake Erie	227.75	811,733	138,404.54	707,302.11	D 568,897.57	51,300.10
Buffalo & Susquehanna	253.54	242,472	62,316.47	100,787.26	D 38,470.79	839.47
Buffalo, Rochester & Pittsburgh	601.91	4,411,313	1,043,192.93	2,005,877.74	D 962,684.81	56,648.00
Burlington-Rock Island	367.19	457,680	106,336.77	226,432.60	D 120,095.83	8,568.96
Central R. R. of New Jersey	692.41	23,515,565	10,423,960.91	12,309,594.85	D 1,885,633.92	1,625,082.12
Charleston & Western Carolina	342.50	906,201	146,797.28	380,955.03	D 234,157.75	37,374.75
Chicago & Erie	269.56	7,784,558	1,527,627.10	1,715,528.23	D 187,901.13	126,218.96
Chicago & Ill. Midland	131.64	396,943	95,675.23	246,486.77	D 150,811.54	10,461.60
Chicago, Indianapolis & Louisville	646.79	7,817,482	2,297,958.54	2,259,118.79	38,839.75	190,630.20
Chicago, Rock Island & Gulf	591.03	4,556,535	1,056,829.19	1,120,053.67	D 63,224.48	78,297.74
Cincinnati, New Orleans & Texas Pacific	338.17	13,820,791	2,875,351.48	3,499,402.11	D 624,050.63	272,687.51
Clinchfield Railroad	309.29	1,220,837	183,270.21	295,813.68	D 112,543.47	61,864.00
Columbus & Greenville	167.70	759,308	205,480.86	320,698.01	D 115,217.15	13,252.15
Detroit & Mackinac	249.84	829,099	184,696.36	284,339.85	D 99,643.49	27,146.64
Detroit, Toledo & Ironton	510.51	455,053	62,738.83	318,129.37	D 255,390.54	27,643.05
Duluth, Missabe & Northern	565.95	1,337,180	154,063.82	937,637.80	D 783,573.98	145,330.00
Duluth, South Shore & Atlantic	573.66	2,109,314	631,669.48	787,726.16	D 156,056.68	95,756.96
Duluth, Winnipeg & Pacific	178.87	1,523,563	242,799.70	455,576.33	D 212,776.63	22,789.15
Fort Smith & Western	249.75	889,238	136,969.53	313,055.39	D 176,085.86	13,907.03
Fort Worth & Denver City	696.75	8,617,570	1,924,966.79	2,183,013.20	D 258,046.41	167,403.30
Fort Worth & Rio Grande	233.52	830,406	119,640.36	287,943.65	D 168,303.29	15,857.02
Georgia R. R.	328.77	3,110,297	743,678.62	912,791.88	D 169,113.26	21,608.99
Georgia, Southern & Florida	397.73	6,061,133	1,051,659.85	1,202,704.77	D 211,044.92	122,624.99
Green Bay and Western	234.15	327,967	67,654.18	282,444.12	D 214,789.94	23,885.40
Gulf & Ship Island	307.75	1,967,460	441,212.80	738,099.33	D 296,886.44	120,487.00
Kansas, Oklahoma & Gulf	326.83	235,852	61,420.53	174,019.41	D112,598.88	24,469.92
321 Lake Superior & Ishpeming	160.57	133,295	28,559.27	57,029.42	D28,470.15	13,894.96
Lehigh & New England	216.67	53,807	34,454.34	49,977.10	D 15,522.76	1,440.64
Louisiana & Arkansas	617.47	1,561,715	362,490.61	694,996.25	D 332,505.64	81,697.71
Louisiana, Arkansas & Texas	203.50	285,392	51,553.10	169,816.87	D 118,263.77	9,627.08
Midland Valley	363.10	445,210	117,638.47	236,453.18	D 118,814.71	23,130.83
Mississippi Central	150.06	412,551	82,247.66	249,924.17	D 167,676.51	14,377.97
Missouri & North Arkansas	364.57	762,528	150,110.24	303,056.37	D 152,946.13	6,005.19
Missouri-Illinois	202.17	202,661	43,860.16	101,883.96	D 58,023.80	5,729.95
Monongahela Ry	177.95	482,051	96,409.49	302,362.01	D 205,952.52	19,458.14
New Jersey & New York	45.72	2,122,243	1,135,388.53	1,051,794.05	83,594.48	42,996.94
New Orleans & Northeastern	204.05	3,835,226	805,791.48	1,076,422.11	D 270,630.63	158,873.07
New Orleans Great Northern	267.68	888,385	214,613.04	777,494.65	D 562,881.61	64,517.10
New Orleans, Texas & Mexico	191.22	1,629,670	377,768.61	544,801.27	D 167,032.66	62,309.85
New York, Susquehanna & Western	131.47	2,300,605	696,709.75	1,145,786.00	D 449,076.25	128,766.01
Northern Alabama	110.17	437,898	63,672.66	183,728.92	D 120,056.26	18,158.07
Northern Pacific	449.70	4,831,102	2,000,204.28	2,848,968.95	D 848,764.67	243,596.24
Oklahoma City-Ada-Atoka	129.65	311,184	82,935.49	185,447.32	D 102,511.83	14,077.34
Pittsburg & Shawmut	102.96	213,942	53,926.45	102,408.11	D 48,481.66	1,401.88
Pittsburg, Shawmut & Northern	198.26	184,301	24,633.61	110,443.77	D 85,810.16	2,630.49
Pittsburgh & Lake Erie	232.01	6,812,519	2,173,524.18	3,590,430.79	D1,416,906.61	282,490.19
Quincy, Omaha & Kansas City	249.75	513,570	130,592.03	133,636.32	D 3,044.29	10,302.20
St. Joseph and Grand Island	258.51	925,271	184,066.24	429,354.89	D 245,288.65	41,147.95
St. Louis, Brownsville & Mexico	620.43	7,106,090	1,288,275.63	2,160,060.49	D 871,784.86	103,094.96
St. Louis, San Francisco & Texas	208.46	703,964	165,811.65	345,243.48	D 179,431.83	11,351.05
San Antonio, Uvalde & Gulf	318.49	1,570,702	283,142.10	399,852.45	D 116,710.35	16,649.61

D—Indicates deficit.

pages, follows

No. 747, I. C. C. Docket No. 9200

length, the passenger proportion of operations for the calendar year 1930

annual reports to I. C. C.]

Equipment and joint facility rents (net)	Net passenger operating income	Per car-mile			Property investment for year 1930			Percent of return
		Total passenger revenue	Total passenger exp.	Net passenger operating income	Total road & equipment	Total depreciation	Total property investment	
D 10,719.81	D 225,227.53	12.87	37.95	D 25.08	$4,371,468.57	$18,482.40	$4,352,986.17	
D 10,606.15	D 67,175.37	9.83	42.49	D 32.66	522,124.87	10,478.27	511,646.60	
49,507.72	D 201,980.44	24.38	27.42	D 3.04	9,907,271.71	803,717.30	9,103,554.41	
D 39,458.02	D 279,197.03	20.99	43.08	D 22.09	2,855,682.73	174,254.53	2,681,428.20	
D 49,439.06	D 117,000.89	31.14	36.43	D 5.29	2,368,845.51	719,628.39	1,649,217.12	
D 44,739.85	D 589,907.86	13.37	32.36	D 18.99	5,196,266.52	252,127.65	4,944,138.87	
D 145,416.92	D 971,619.24	33.91	53.31	D 19.40	10,765,529.57	21,287.67	10,744,241.90	
D 236,799.74	D 650,850.32	20.72	56.65	D 35.93	2,082,682.12	6,606.74	2,076,075.38	
D 527.85	D 620,725.52	17.05	93.52	D 76.47	4,903,093.88	681,150.75	4,221,943.13	
9,701.29	D 29,608.97	25.70	37.91	D 12.21	762,792.62	133,036.58	629,756.04	
23,603.75	D 995,729.06	23.65	46.22	D 22.57	10,520,089.63	1,434,304.94	9,085,784.69	
D 33,030.15	D 161,694.94	23.23	58.56	D 35.33	1,162,304.05	38,761.85	1,123,542.20	
D 448,123.26	D3,958,819.30	44.33	61.16	D 16.83	64,414,698.22	9,704,578.99	54,710,119.23	
D 4,780.64	D 276,313.14	16.20	46.69	D 30.49	1,892,160.71	190,290.15	1,701,870.56	
D 691,266.20	D1,005,386.29	19.62	32.54	D 12.92	7,712,827.75	24,814.39	7,688,013.36	
D 8,735.95	D 170,009.09	24.10	66.93	D 42.83	1,101,093.97	92,434.92	1,008,659.05	
D 293,355.13	D 445,145.58	29.40	35.09	D 5.69	10,767,821.35	924,640.87	9,843,180.48	
D 109,216.08	D 250,738.30	23.19	28.69	D 5.50	7,285,734.34	224,686.45	7,061,047.89	
1,745.23	D 894,992.91	20.80	27.28	D 6.48	19,153,348.11	1,292,454.59	17,860,893.52	
55,183.73	D 119,223.74	15.01	24.78	D 9.77	5,297,523.61	219,931.05	5,077,592.56	
D 5,806.34	D 134,275.64	27.06	44.74	D 17.68	749,464.28	15,390.91	734,073.37	
D 1,039.59	D 127,829.72	22.28	37.69	D 15.41	2,164,938.24	209,037.85	1,955,900.39	
D 17,824.65	D 300,858.24	13.79	79.90	D 66.11	2,447,638.22	83,752.25	2,363,885.97	
3,721.17	D 925,182.81	11.52	80.71	D 69.19	6,405,345.33	1,393,066.15	5,012,279.18	
D 22,843.92	D 274,657.56	29.95	42.97	D 13.02	11,807,463.90	511,651.60	11,295,812.30	
17,250.60	D 218,215.18	15.94	30.26	D 14.32	4,536,636.29	188,903.16	4,347,733.13	
D 35,077.03	D 225,069.92	15.40	40.71	D 25.31	2,066,813.06	74,361.81	1,992,451.25	
D 41,749.72	D 467,199.43	22.34	27.76	D 5.42	11,248,811.64	1,432,865.00	9,815,946.64	
D 30,239.47	D 214,399.78	14.41	40.23	D 25.82	2,560,838.58	11,686.82	2,549,151.76	
40,545.44	D 150,176.81	23.91	28.74	D 4.83	3,840,636.89	497,916.44	3,342,720.45	
D 1,116.33	D 334,786.24	17.35	22.87	D 5.52	7,117,029.94	478,926.56	6,638,103.38	
D 12,683.02	D 251,358.36	20.63	97.27	D 76.64	2,540,829.66	113,980.20	2,426,849.46	
D 55,542.62	D 472,916.06	22.43	46.46	D 24.03	5,586,230.01	206,635.51	5,379,594.50	
D 25,079.00	D 162,147.80	26.06	94.87	D 68.81	1,702,340.18	16,435.92	1,685,904.26	
D 1,421.70	D 43,786.81	21.43	54.28	D 32.85	348,532.83	157,941.77	190,591.06	
D 1,150.71	D 18,114.11	64.03	97.69	D 33.66	278,539.82	39,878.50	238,961.32	
D 62,824.71	D 476,728.06	23.21	53.74	D 30.53	6,090,142.97	232,476.53	5,857,666.44	
D 21,162.67	D 149,053.52	18.06	70.29	D 52.23	225,962.78	16,177.25	209,785.53	
D 26,534.06	D 168,479.60	26.42	64.26	D 37.84	2,700,175.96	53,756.32	2,646,419.64	
D 6,284.59	D 188,339.07	19.94	65.59	D 45.65	2,057,738.98	143,359.03	1,914,379.95	
D 33,409.13	D 192,360.45	19.69	44.91	D 25.22	891,261.48	33,780.90	857,480.58	
D 9,294.59	D 73,048.34	21.64	57.68	D 36.04	585,296.15	32,432.40	552,863.75	
D 106,368.52	D 331,779.18	20.00	88.83	D 68.83	2,522,310.17	87,306.32	2,435,003.85	
D 304,625.50	D 264,027.96	53.50	65.94	D 12.44	3,076,201.27	12,146.48	3,064,054.79	
D 99,097.91	D 528,601.61	21.01	34.79	D 13.78	6,556,401.57	388,991.79	6,187,409.78	
D 134,711.94	D 762,110.65	24.16	109.94	D 85.78	7,331,997.91	745,179.95	6,586,817.96	
100,275.21	D 129,067.30	23.18	31.10	D 7.92	4,994,600.89	515,564.20	4,479,036.69	
D 112,069.07	D 689,911.33	30.28	60.27	D 29.99	13,335,306.20	488,264.76	12,847,041.44	
D 57,047.54	D 195,261.87	14.54	59.13	D 44.59	1,377,064.21	1,428.31	1,375,635.90	
D 56,635.14	D1,148,996.05	41.40	65.18	D 23.78	38,306,825.94	1,095,571.30	37,211,254.64	
D 40,622.49	D 157,211.66	26.65	77.17	D 50.52	1,163,795.52	6,704.21	1,162,091.31	
2,475.45	D 47,408.09	25.21	47.37	D 22.16	1,568,322.90	112,892.68	1,455,430.22	
D 6,789.05	D 95,229.70	13.37	65.04	D 51.67	230,658.34	35,001.65	195,656.69	
543,217.12	D1,156,179.68	31.90	48.87	D 16.97	19,781,288.40	2,253,565.72	17,527,722.68	
D 5,691.86	D 19,038.35	25.43	29.14	D 3.71	1,145,656.24	2,476.58	1,143,179.66	
D 54,673.22	D 341,089.82	19.90	56.76	D 36.86	3,625,067.61	83,495.50	3,541,572.11	
D 228,086.79	D1,202,966.61	18.13	35.06	D 16.93	11,241,246.42	673,615.35	10,567,631.07	
D 85,538.40	D 276,321.28	23.55	62.80	D 39.25	1,554,689.16		1,554,689.16	
D 98,760.12	D 232,120.08	18.02	32.80	D 14.78	2,166,115.48	25,582.94	2,140,532.54	

Post Office Department Exhibi

Exhibit showing for 69 class I railroads between 100 and 700 miles in length

Railroads	Miles of road operated	Passenger car-miles	Total passenger revenue	Total passenger expenses		Total Operating income	Railway tax accruals
Spokane, Portland & Seattle	555.49	6,544,745	1,192,870.96	2,042,345.99	D	849,475.03	381,962.3
Tennessee Central	295.15	931,070	225,247.75	314,054.01	D	88,806.26	10,938.2
Texarkana & Fort Smith	180.25	717,270	163,985.28	217,449.27	D	53,463.99	13,647.3
Texas Mexican	162.05	335,191	74,456.24	235,203.37	D	160,747.13	15,340.0
Ulster & Delaware	128.88	1,320,534	556,121.60	563,200.24	D	7,078.64	43,108.3
Virginian	554.81	2,779,650	368,430.41	871,025.32	D	502,594.91	195,481.8
Western Rwy. of Alabama	133.42	2,380,931	706,567.71	733,141.61	D	26,573.90	61,012.2
Wichita Falls & Southern	203.72	156,150	22,563.68	69,693.70	D	47,130.02	4,738.5
Wichita Valley	271.35	580,905	78,432.54	240,227.90	D	161,795.36	29,370.4
Wheeling & Lake Erie	511.60	1,445,204	300,955.34	580,687.02	D	279,731.68	70,398.9

No. 747, I. C. C. Docket No. 9200—Continued

the passenger proportion of operations for the calendar year 1930—Continued

Equipment and joint facility rents (net)	Net passenger operating income	Per car-mile			Property investment for year 1930			Percent of return
		Total passenger revenue	Total passenger exp.	Net passenger operating income	Total road & equipment	Total depreciation	Total property investment	
D 69,735.20	D1,301,172.57	18.28	28.11	D 19.88	24,285,728.73	923,112.89	23,362,115.84	.....
D 27,467.39	D 127,211.87	24.19	37.85	D 13.66	1,033,110.15	57,130.77	975,989.41	.....
D 57,895.73	D 125,007.99	22.86	40.29	D 17.43	1,704,262.68	2,238.18	1,702,064.50	.....
D 19,158.61	D 195,245.76	22.21	80.46	D 58.25	1,664,274.02	37,279.41	1,626,994.61	.....
D 8,163.91	D 58,360.94	42.11	46.53	D 4.42	3,908,317.26	461,173.26	3,444,743.79	.....
88,454.40	D 609,622.31	13.25	35.18	D 21.93	15,032,909.73	807,690.91	14,225,774.82	.....
20,094.28	D 67,561.84	20.66	22.81	D 2.53	3,491,097.81	1,008,243.63	2,482,853.68	.....
D 7,102.72	D 58,971.27	14.45	52.22	D 37.77	766,534.65	21,899.70	744,634.75	.....
D 71,417.87	D 262,523.63	13.50	56.69	D 43.19	718,128.73	28.69	718,110.04	.....
5,976.73	D 344,153.86	20.82	44.63	D 23.81	4,561,944.56	315,993.92	4,245,950.64	.....

320 Interstate Commerce Commission. Docket No. 9200. Date 6-29-32. Dept. Exhibit No. 747. Witness, Gilbert. Reporter, Tarrell.

322 *Exhibit No. 748, one page, follows*

323 GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN & H. W. PURVIS, RECEIVERS

Statistics for a group of large class I roads with which the Georgia & Florida Railroad is grouped in respect to rates for carrying mail

1931	Average miles of road operated	Passenger train car miles	Passengers carried, revenue	Passenger miles, revenue	Passenger revenue	Operating revenue	Operating expenses	Account 106, mail	Mail revenue per mile of road	Operating revenue per mile of road
Pennsylvania	10,898	394,145,648	79,483,996	2,917,314,123	$86,817,696.00	$448,098,279	$352,855,931	$12,808,642	$1,175	$41,118
Baltimore & Ohio	5,645	108,234,155	5,188,855	519,232,928	14,801,546.00	158,474,628	119,944,440	8,139,175	856	28,073
New York Central	11,388	429,082,642	63,166,911	2,968,079,198	86,304,507.00	382,196,183	307,065,681	12,348,067	1,084	33,559
Southern	6,730	68,149,196	3,283,307	391,827,595	12,312,558.00	97,715,112	79,783,959	3,702,029	550	14,518
Atlantic Coast Line	5,157	57,748,302	1,185,803	223,575,103	7,488,762.00	54,088,005	43,188,471	1,641,956	318	10,488
Missouri Pacific	7,444	67,799,062	1,893,173	237,937,057	7,131,656.00	95,268,193	70,540,153	3,057,991	679	12,798
Union Pacific	3,766	83,206,007	965,657	354,691,162	9,351,597.00	89,253,104	60,255,553	3,072,483	816	23,697
Illinois Central	5,018	84,554,081	31,205,859	575,341,594	12,294,635.00	99,095,977	80,579,955	2,213,038	441	19,745
Atchison, Topeka & Santa Fe	9,676	145,520,966	1,949,133	734,581,490	20,828,694.00	150,073,625	109,299,248	5,217,993	539	15,510
Chicago, Milwaukee, St. Paul & Pacific	11,304	79,481,774	4,638,081	345,067,774	8,940,605.00	111,401,712	89,216,495	3,313,608	293	9,855
New York, New Haven & Hartford	2,099	75,972,761	41,696,534	1,293,813,519	34,425,958.00	100,331,094	69,113,722	2,462,549	1,173	47,802
Boston & Maine	2,090	48,730,222	22,496,601	461,999,214	11,445,035.00	57,784,977	42,225,601	1,528,182	731	27,552
Chicago, Burlington & Quincy	9,313	96,191,738	9,856,396	472,741,806	11,205,062.00	111,218,960	77,465,969	4,407,436	473	11,943
Chesapeake & Ohio	3,119	31,979,636	1,848,153	127,321,621	4,110,247.00	119,552,170	74,497,861	1,111,537	356	38,336
Average for Above Group of Roads	93,648					2,074,546,017		60,024,639	641	22,152
Georgia & Florida	464	552,586	34,993	1,256,719	36,121.13	1,357,711	1,334,578	37,998	82	2,929
1930 Average for all Class I Roads	242,391	3,563,193,000			729,470,279.00	5,281,196,870	3,930,928,687			21,788

Augusta, Ga., June 24, 1932.

Exhibit No. 749, one page, follows

GEORGIA & FLORIDA RAILROAD, W. V. GRIFFIN & H. W. PURVIS, RECEIVERS

1930 statistics for class I roads having approximately same number of passenger train car miles as Georgia & Florida Railroad

Name of road	Average miles of road operated	Passenger train car miles	Revenue passengers carried	Revenue passengers carried one mile	Passenger revenue	Operating revenue	Operating expenses	Account 106 mail revenue	Average mail revenue per mile of road	Average operating revenue per mile of road
Ann Arbor	293.86	1,274,000	76,108	4,110,069	$195,180	$5,025,808	$3,865,096	$52,699	$179.33	$14,486
Bessemer & Lake Erie	227.75	811,000	166,241	2,442,815	55,554	14,712,458	9,295,346	27,776	121.96	64,599
Charleston & Western Carolina	342.50	905,000	82,648	2,761,646	88,924	2,795,654	2,247,308	36,473	106.49	8,162
Clinchfield	309.29	1,217,000	142,733	3,345,306	110,016	6,016,063	3,998,345	41,797	135.14	19,451
Cincinnati Northern (Note)	205.14		22,985	1,069,754	36,855	3,840,769	2,590,171	40,985	199.79	18,723
Columbus & Greenville	167.70	518,000	135,510	4,277,003	145,905	1,598,382	1,398,072			9,531
Detroit & Mackinac	249.84	586,000	35,719	2,336,000	85,393	1,082,774	959,901	41,521	166.19	4,334
Duluth, Missabe & Northern	567.68	1,312,000	76,209	3,136,235	74,878	21,007,438	11,546,754			37,119
Duluth, Winnipeg & Pacific	178.87	1,516,000			130,071	1,753,392	1,711,277			9,803
Fort Smith & Western	249.75	889,000	37,108	2,455,083	76,093	1,332,486	1,105,900			5,335
Gulf & Ship Island	307.75	1,967,000	140,656	8,892,678	321,998	2,577,151	2,174,927	54,435	176.88	8,374
Louisiana and Arkansas	617.47	1,480,000	244,498	7,000,482	220,259	6,980,607	4,727,402			11,305
Minnesota & International	179.52		35,668	2,266,754	77,146	689,762	593,750			3,842
Mississippi Central	150.00	413,000	46,286	1,586,310	55,158	1,317,572	1,095,644	19,436	129.57	8,780
Missouri & North Arkansas	354.57	763,000	52,240	1,974,463	67,259	1,632,445	1,457,365			4,478
Monongahela	177.95	472,000	122,906	1,738,209	60,763	6,076,447	3,341,538	9,027	50.73	34,094
New Orleans & Great Northern	267.68	723,000	158,212	7,770,983	158,184	2,778,287	2,008,393			10,379
St. Joseph & Grand Island	258.51	883,000	50,416	2,694,667	85,396	3,604,258	2,384,017	56,091	216.98	13,942
Tennessee Central	295.95	929,000	65,913	3,378,201	122,134	3,064,838	2,366,757	51,534	174.13	10,356
Ulster & Delaware	128.88	1,321,000	70,414	2,517,673	156,137	976,641	887,258	29,477	228.72	7,578
Georgia & Florida	487.74	949,000	52,700	1,975,252	62,986	1,695,137	1,502,810	40,096	82.21	3,475
Average for all Class I Roads	242,391,00	3,563,193,000	265,364,679	20,153,406,000	729,470,279	5,281,196,870	3,930,928,687			21,788

NOTE.—1929 figures shown. Figures for 1930 not available

Augusta, Georgia, June 24, 1932

326 The following exhibits were introduced at the reopened proceeding in Docket No. 9200, Georgia & Florida Railway Mail Pay Case, and are to be disposed of as follows:

Exhibit No. 759, four pages, is to be printed in full, as follows:

327 *Post Office Department Exhibit No. 759*

(I. C. C. Docket No. 9200)

(Supplementary to page 1, Exhibit No. 742)

Statement showing the amounts paid to the Georgia and Florida Railroad for the transportation of the mails for the fiscal years 1932 to 1934, inclusive

Year	Regular service	Emergency service	Total pay
1932	$35,102.57		$35,102.57
1933	34,944.38	$26.85	34,971.23
1934	34,929.43	17.98	34,947.41

(Supplementary to page 2, Exhibit No. 742)

Statement showing the mail service in effect June 20, 1935, on the Georgia and Florida Railroad

Route number	Train number	Termini	Unit authorized	Distance (miles)	Frequency	No. of trips per annum	Miles per annum	Rate per mile (cts.)	Total per annum pay at rates per mile	Minimum pay	Total pay per annum
104781	1	Midville-Garfield, Ga	3-ft. C. P	17.44	Sundays	52	906.88	4.5	$40.80		
	1	Garfield, Graymont, Ga	3-ft. C. P	6.04	Sundays	52	314.08	4.5	14.13		
	2	Garfield-Midville, Ga	3-ft. C. P	17.44	Sundays	52	906.88	4.5	40.80		
	2	Graymont-Garfield, Ga	3-ft. C. P	6.04	Sundays	52	314.08	4.5	14.13		
	4	Valdosta-Augusta, Ga	15-ft. apt	222.90	Daily	365	81,358.50	14.5	11,796.98		
	5	Augusta-Valdosta, Ga	15-ft. apt	222.90	Daily	365	81,358.50	14.5	11,796.98		
	17	Valdosta, Ga.-Madison, Fla	3-ft. C. P	27.39	Da. ex. Sun	313	8,573.07	4.5	385.78		
	18	Madison, Fla.-Valdosta, Ga	3-ft. C. P	27.39	Da. ex. Sun	313	8,573.07	4.5	385.78		
	43	Garfield-Graymont, Ga	3-ft. C. P	6.04	Da. ex. Sun	313	1,890.52	4.5	85.07		
	43	Graymont-Garfield, Ga	3-ft. C. P	6.04	Da. ex. Sun	313	1,890.52	4.5	85.07		
	43	Midville-Garfield, Ga	3-ft. C. P	17.44	Da. ex. Sun	313	5,458.72	4.5	245.64		
	43	Garfield-Statesboro, Ga	3-ft. C. P	25.19	Da. ex. Sun	313	7,884.47	4.5	354.80		
	44	Statesboro-Midville, Ga	3-ft. C. P	42.63	Da. ex. Sun	313	13,343.19	4.5	600.44		
	45	Graymont-Garfield, Ga	3-ft. C. P	6.04	Da. ex. Sun	313	1,890.52	4.5	85.07		
	46	Garfield-Graymont, Ga	3-ft. C. P	6.04	Da. ex. Sun	313	1,890.52	4.5	85.07		$25,016.54
104878	30	Douglas-Broxton, Ga	3-ft. C. P	8.50	M. W. & F	156	1,326.00	4.5	59.67		
	31	Broxton-Douglas, Ga	3-ft. C. P	8.50	M. W. & F	156	1,326.00	4.5	59.67		
	32	Douglas-Broxton, Ga	3-ft. C. P	8.50	Tu. Thu. & Sa	156	1,326.00	4.5	59.67		
	33	Broxton-Douglas, Ga	3-ft. C. P	8.50	Tu. Thu. & Sa	156	1,326.00	4.5	59.67	$612.00	612.00
		Total authorized pay per annum									26,628.54

329 (Supplementary to page 3, Exhibit 742)

Statement showing the car miles performed by the Georgia and Florida Railroad in passenger and freight service for the years 1932, 1933, and 1934

[Authority: Annual report of the Georgia and Florida Railway]

Year	Freight car miles	Passenger car miles	Motor car miles	Total
1932	5,227,376	574,322	26,391	5,828,109
1933	6,258,260	575,922	----------	6,834,182
1934	6,593,391	537,344	----------	7,130,735

330 (Supplementary to page 4, Exhibit No. 742)

Statement showing the miles of service performed in passenger equipment and pay therefor, the pay for the service performed in motor cars, and the grand total paid to the Georgia and Florida Railroad for the transportation of the mails during the calendar years 1932, 1933, and 1934

Year	Miles of mail service performed in combination cars			Pay	Mail service performed in motor cars	Total pay for transportation
	15-ft. apt.	3-ft. storage	3-ft. C. P.			
1932	215,362.64	767.36	53,331.83	$34,026.15	$1,061.59	$35,087.74
1933	214,370.34	513.91	52,790.25	33,850.63	1,069.46	34,920.09
1934	203,592.17	----------	52,997.87	32,277.13	899.12	33,176.25

331 Exhibit No. 760, rules issued by the Interstate Commerce Commission governing the separation of operating expenses between freight service and passenger service on large steam railways, issue of 1920, thirteen pages, is to be printed and is as follows:

332 *Exhibit 760*

Interstate Commerce Commission

RULES GOVERNING THE SEPARATION OF OPERATING EXPENSES BETWEEN FREIGHT *Service* AND PASSENGER SERVICE ON LARGE STEAM RAILWAYS

Issue of 1920, Effective on January 1, 1920

333 ORDER

At a General Session of the Interstate Commerce Commission, Held at Its Office in Washington, D. C., on the 1st Day of December A. D. 1919

IN THE MATTER OF RULES GOVERNING THE SEPARATION OF OPERATING EXPENSES BETWEEN FREIGHT SERVICE AND PASSENGER SERVICE ON LARGE STEAM RAILWAYS

It is ordered, That—

1. Effective as of January 1, 1920, and thereafter until otherwise ordered, every carrier by steam railway whose operating revenues exceed $1,000,000 per annum shall classify each of its various items of disbursement relating to operating account according to the relation which such item bears to the freight service and to the passenger and allied services of the carrier. Each such item shall have its character appropriately indicated on the carrier's records according as it relates (a) solely to freight service, or (b) solely to passenger and allied services, or (c) in common to both freight service and passenger and allied services, or (d) to neither freight service nor passenger and allied services. Appropriate subaccounts to provide for the foregoing classification shall be set up under each of the primary operating accounts of the carrier and the results of such classification shall be shown in the annual reports made by each such carrier to the Interstate Commerce Commission. Similar analysis shall be made of every journal entry representing a charge or a credit to an operating expense account and the results of such analysis shall be appropriately indicated on the carrier's records.

2. The operating expenses common to both freight service and passenger and allied services shall be apportioned between the two classes of service in accordance with the annexed "Rules governing the Separation of Operating Expenses between Freight Service and Passenger Service on Large Steam Railways, Issue of 1920", which are hereby approved and made a part hereof; and the results of such apportionment shall be shown in detail for the various primary operating expense accounts in the annual report of each said carrier to the Interstate Commerce Commission.

By the Commission.

[SEAL.] GEORGE B. MCGINTY, *Secretary.*

334 Rules Governing the Separation of Operating Expenses Between Freight Service and Passenger Service

It is expected that carriers will first assign to freight service or to passenger service, including allied services, the operating expenses that are directly or naturally assignable and that this direct assignment will be carried to the fullest extent that is practicable, except as stated below, without undue increase in accounting expense. The methods indicated under the various accounts are for dividing the common expenses.

The separation should, as far as practicable, be made by operating or accounting divisions, and the aggregate of the divisional separations reported for the year.

MAINTENANCE OF WAY AND STRUCTURES

201. Superintendence. Apportion common expenses according to proportions of accounts 202 to 273, inclusive, excluding common expenses in accounts 227–228 and 247–248.

202–226. Track expenses, etc. It is essential that maintenance of tracks in yards where a separate switching service is maintained be kept distinct from that of other tracks, the expenses of the exclusively freight or passenger yards being directly assigned. The annual report form will provide by means of subaccounts for showing such yard maintenance separately from other track maintenance.

The maintenance of tracks in yards in which a separate switching service is maintained and which are used in common by freight and passenger services should be divided according to the switching-locomotive miles in the common yards. Expenses of all other tracks should be apportioned according to the proportions of accounts 394 to 396, inclusive. The maintenance of road tracks used exclusively by one service should not be directly assigned to that service unless a corresponding deduction is first made from accounts 394–396 for the fuel or power used on such tracks.

227–228. Station and office buildings. Apportion common expenses according to proportions of accounts 202 to 273, excluding common expenses in accounts 227–228 and 247–248.

335 229–230. Roadway buildings. Apportion common expenses according to proportions of accounts 202–226.

231–234. Water and fuel stations. Apportion common expenses according to proportions of accounts 382 and 394 taken together.

235–236. Shops and enginehouses. Apportion common expenses of shops according to proportions of accounts 308, 311, 314, 317, 320, 323, and 326, excluding common expenses in account 326; of enginehouses according to proportions of accounts 388 and 400.

237–246. Grain elevators, storage warehouses, etc. Assign directly or apportion according to facts in individual instances.

247–248. Telegraph and telephone lines. Apportion common expenses according to proportions of accounts 202 to 273, excluding common expenses in accounts 227–288 and 247–248.

249–250. Signals and interlockers. Apportion common expenses on basis of transportation service locomotive-miles, including switching locomotive-miles.

251–266. Power plants, etc. Assign according to the facts in individual instances.

267–278. Paving, roadway machines, etc. Apportion common expenses according to proportions of accounts 202 to 226.

274–277. Injuries to persons, etc. When not determined by facts in individual instances these expenses should be apportioned according to proportions of accounts 202 to 273, inclusive, excluding common expenses in accounts 227–228 and 247–248.

278–279. Maintaining joint tracks, etc. Joint facilities should, as far as practicable, be treated individually, according to the use made of them by the reporting carrier, regardless of the nature of their use by other carriers, using the appropriate bases indicated for preceding accounts.

MAINTENANCE OF EQUIPMENT

301. Superintendence. Apportion common expenses according to freight and passenger proportions of the aggregate of all primary accounts in General Account II, Maintenance of Equipment, omitting common expenses in accounts 301 and 329–335, inclusive.

336 302–303. Shop machinery. Apportion common expenses according to proportions of accounts 308, 311, 314, 317, 320, 323, and 326 combined.

304–307. Power plants. Apportion common expenses on basis of power used.

308. Steam locomotives—Repairs. The division should be actual—that is, the repairs of road locomotives assigned exclusively to passenger service should be kept distinct from repairs of road locomotives assigned exclusively to freight service. In cases in which locomotives are not run exclusively in one service or the other the repairs of each locomotive, or class of locomotives, should be divided according to the mileage of the individual locomotive or class.

Mixed-train locomotive mileage, for the purpose of this account, should be divided on the basis of car-miles in mixed trains.

Repairs of locomotives in yard service should be divided according to the freight and the passenger yard switching locomotive-miles.

309–310. Steam locomotives—Depreciation and retirements. Assign directly, as far as practicable, and apportion the unassigned remainder according to the proportions of account 308.

311–313. Other locomotives—Repairs, depreciation, and retirements. Treat in accordance with the methods used for accounts 308–310, substituting, however, the percentages produced from other than steam locomotives.

314–316. Freight-train cars—Repairs, depreciation, and retirements. Assign directly.

317–319. Passenger-train cars—Repairs, depreciation, and retirements. Assign directly.

320–322. Motor equipment of cars—Repairs, depreciation, and retirements. Assign according to service to which motor-equipped cars are assigned.

323–325. Floating equipment—Repairs, depreciation, and retirements. Apportion according to use made of the floating equipment.

326–328. Work equipment—Repairs, depreciation, and retirements. Apportion common expenses according to proportions of accounts 202 to 273, omitting common expenses in accounts 227–228 and 247–248.

337 329–331. Miscellaneous equipment—Repairs, depreciation, and retirements. Apportion common expenses according to percentages used to divide common expenses of account 301.

332–335. Injuries to persons; insurance; stationery and printing; and other expenses. Apportion common expenses according to percentages used to divide common expenses of account 301.

336–337. Joint equipment at terminals. Apportion each class of common expenses on bases prescribed for the corresponding operating expense accounts, as far as practicable. The remainder, if any, should be apportioned according to percentages used to divide common expenses of account 301.

III. TRAFFIC EXPENSES

351–359. Superintendence; outside agencies; advertising; traffic associations; fast freight lines; industrial and immigration bureaus; insurance; stationery and printing; and other expenses. Assign directly, as far as practicable, and apportion the unassigned remainder on the basis of the directly assigned expenses in this general account.

IV. TRANSPORTATION—RAIL LINE

371. Superintendence. Apportion common expenses according to freight and passenger proportions of the aggregate of all primary accounts in General Account IV. Transportation—Rail Line, omitting the common expenses in accounts 373, 376, 390–391, 406, 407, 410–417, and 420.

372. Dispatching trains. Apportion common expenses on the basis of transportation train-miles. Mixed train-miles for the purpose of this account should be divided on the basis of car-miles in mixed trains.

373. Station employees. Apportion common expenses according to percentages used to divide common expenses of account 371.

374. Weighing, inspection, and demurrage bureaus. Assign directly.

338 375. Coal and ore wharves. Assign directly.

376. Station supplies and expenses. Apportion common expenses according to percentages used to divide common expenses of account 371.

377–389. Yardmasters and yard clerks; yard conductors and brakemen; yard switch and signal tenders; yard enginemen; yard motormen; fuel for yard locomotives; yard switching power produced; yard switching power purchased; water for yard locomotives; lubricants for yard locomotives; other supplies for yard locomotives; enginehouse expenses—yard; yard supplies and expenses. Assign directly, as far as practicable, and opportion the unassigned remainder in accordance with the freight and the passenger yard switching-locomotive mileage.

390–391. Operating joint yards and terminals. Apportion each class of common expenses on bases prescribed for the corresponding operating expense accounts as far as practicable. The remainder, if any, should be divided according to the percentages used to divide the common expenses of account 371.

392–393. Train enginemen and train motormen. Assign directly, as far as possible. Apportion expenses for mixed-train service on the basis of car-miles in mixed trains. Apportion other common expenses on the basis of the direct assignments.

394. Fuel for train locomotives. Assign directly, as far as possible. Apportion expenses for mixed-train service on the basis of car-miles in mixed trains. Apportion other common expenses, which should be relatively small, on the basis of the direct assignment. Any abnormal conditions, such as a widely different price paid for fuel in one service as compared with that in the other, should be noted in annual reports.

395–396. Train power produced and purchased. Apportion common expenses according to purpose for which power is used.

397. Water for train locomotives. Apportion common expenses according to proportions of account 394.

398–399. Lubricants and other supplies for train locomotives. Observe tenor of directions under accounts 392–393.

339 400. Enginehouse expenses—Train. Expenses at each enginehouse should be divided according to the number of engines handled for each service. Where various classes of engines differ considerably in expense of handling at an enginehouse, an arbitrary should be adopted representing such variation and the number of engines handled modified accordingly. Mixed-train locomotive expenses should be divided on the basis of car-miles in mixed trains.

401–402. Trainmen and train supplies and expenses. Observe tenor of directions under accounts 392–393.

403. Operating sleeping cars. Assign to passenger.

404–405. Signal and interlocker operation; crossing protection. Apportion common expenses on the basis of transportation locomotive-miles, including switching locomotive-miles.

406. Drawbridge operation. Apportion common expenses according to percentages used to divide common expenses of account 371.

407. Telegraph and telephone operation. Apportion common expenses according to percentages used to divide common expenses of account 371.

408. Operating floating equipment. Apportion common expenses according to the use made of the floating equipment.

409. Express service. Assign to passenger.

410. Stationary and printing. Apportion common expenses according to percentages used to divide common expenses of account 371.

411. Other expenses. Apportion common expenses according to percentages used to divide common expenses of account 371.

412–413. Operating joint tracks and facilities. Apportion each class of expense on bases prescribed for the corresponding operating expense accounts as far as practicable. The remainder, if any, should be apportioned according to percentages used to divide common expenses of account 371.

414. Insurance. Apportion common expenses according to percentages used to divide common expenses of account 371.

340 415. Clearing wrecks. Assign directly, as far as practicable, according to service in which wreck occurs and not according to responsibility for wreck. Apportion unassigned remainder according to percentages used to divide common expenses of account 371.

416–417. Damage to property and damage to live stock on right of way. Observe tenor of directions for account 415.

418. Loss and damage—Freight. Assign to freight.

419. Loss and damage—Baggage. Assign to passenger.

420. Injuries to persons. Observe tenor of directions for account 415.

V. TRANSPORTATION—WATER LINE

Assign directly as far as practicable. Apportion remainder on appropriate units according to local conditions.

VI. MISCELLANEOUS OPERATIONS

Observe tenor of directions under General Account V. Transportation—Water Line.

VII. GENERAL EXPENSES

Assign directly, as far as practicable, and apportion remainder according to proportions of accounts 201 to 446.

VIII. TRANSPORTATION FOR INVESTMENT—CR.

The method of deciding upon the amount of this credit will determine the freight and the passenger proportion.

CHARGES AND CREDITS BETWEEN SERVICES

Carriers in making apportionments under the preceding rules should not, until further notice, make any allowance for the credit that should be given to the freight service for work performed (such as carrying company fuel) for the passenger service and vice versa.

Statement showing (1) the method of allocating and apportioning the railway operating expenses of the Georgia and Florida Railroad for the calendar year 1931 between freight service and passenger service in accordance with the rules prescribed by the Interstate Commerce Commission, Issue of 1920, governing the separation of operating expenses between freight service and passenger service on steam railways whose operating revenues exceed $1,000,000 per annum and (2) the method used to further separate the passenger operating expenses thus obtained, between passenger, express and mail services under rules promulgated by the Post Office Department and the Carriers in preceding Railway Mail Pay Cases, Docket 9200, which rules were used in the Georgia and Florida Railway Mail Pay Case filed April 1, 1931, as a working basis for the separation of passenger operating expenses between passenger, express, and mail services.

Primary operating account numbers	General and Primary Account Headings	Interstate Commerce Commission rule governing the separation of operating expenses between freight service and passenger service (See Exhibit No. —)	Total operating expenses for the year 1931	Not related for purpose of this inquiry	Separation of related operating expenses (Col. 4–Col. 5) between freight and passenger service		Basis of separation of amount in column 7 between passenger, express and mail	Separation of amount in column 7 between passenger, express and mail			Remarks
					Relating wholly to and apportioned						
					Freight	Passenger		Passenger	Express	Mail	
1	2	3	4	5	6	7	8	9	10	11	12
	I. Maintenance of Way and Structures:										
201	Superintendence.	Apportion common expenses according to proportions of accounts 202 to 273, inclusive, excluding common expenses in accounts 227–228 and 247–248.	$27,267.87		$20,723.58	$6,544.29	Apportioned on car-foot mile ratios. See note in Column 12.	$5,258.34	$437.81	$848.14	NOTE.—Basis of separation of passenger operating expenses between passenger, express, and mail.
	Track Expenses:	It is essential that maintenance of tracks in yards where a separate switching service is maintained be kept distinct from									All operating expenses relating exclusively to passenger, express, or mail services were assigned to the class to which it
202	Roadway Maintenance—Yard.		494.16		444.74	49.42					
	Roadway Maintenance—Other.		28,541.89		21,691.81	6,850.08					
208	Roadway Depreciation—Yard.		—		—	—					

Statement showing the railway operating expenses of the Georgia and Florida Railroad for the year 1931, etc.—Continued

Primary operating account numbers	General and Primary Account Headings	Interstate Commerce Commission rule governing the separation of operating expenses between freight service and passenger service (See Exhibit No. —)	Total operating expenses for the year 1931	Not related for purpose of this inquiry	Separation of related operating expenses (Col. 4–Col. 5) between freight and passenger service		Basis of separation of amount in column 7 between passenger, express and mail	Separation of amount in column 7 between passenger, express and mail			Remarks
					Relating wholly to and apportioned						
					Freight	Passenger		Passenger	Express	Mail	
1	2	3	4	5	6	7	8	9	10	11	12
	Track Expenses—Continued										
	Roadway Depreciation—Other.	that of other tracks the expenses of the exclusively freight or passenger yards being directly assigned. The annual report form will provide by means of subaccounts for showing such yard maintenance separately from other track maintenance.	—		—	—					related. Common expenses were divided on car-foot mile ratios developed from the space study, the data for which having been taken during the test period, September 28 to October 25, 1931. There were no operating expenses relating exclusively to express or mail services, therefore, the entire amounts charged to express and mail services were apportioned. For the purposes of this exhibit, ratios developed by the plan of apportioning the unoc-
204	Underground Power Tubes—Yard.		—		—	—					
	Underground Power Tubes—Other.		—		—	—					
205	Underground Power Tubes—Dep'n—Yard.		—		—	—					
	Underground Power Tubes—Dep'n—Other.		—		—	—					
206	Tunnels and Subways—Yard.		—		—	—					
	Tunnels and Subways—Other.		—		—	—					
207	Tunnels and Subway—Depreciation—Yard.	The maintenance of tracks in yards in which a separate switching service is maintained and which are used in common by freight and passenger services should be divided according to the switching-locomotive miles in	—		—	—					
	Tunnels and Subways—Depreciation—Other.		—		—	—					
208	Bridges, Trestles, and Culverts—Yard.		$10.90		$9.81	$1.09					
	Bridges, Trestles, and Culverts—Other.		28,168.93		21,408.37	6,760.56					
209	Bridges, Trestles, & Culverts, Dep'n, Yard.		—		—	—					
	Bridges, Trestles, & Culverts, Dep'n, Other.		—		—	—					

210	Elevated Structures — Yard.	the common yards. Expenses of all other tracks should be apportioned according to the proportions of accounts 394 to 396, inclusive. The maintenance of road tracks used exclusively by one service should not be directly assigned to that service unless a corresponding deduction is first made from accounts 394-396 for the fuel or power used on such tracks.	—		—	—							
	Elevated Structures — Other.		—		—	—							
211	Elevated Structures — Depreciation, Yard		—		—	—							
	Elevated Structures — Dep'n—Other.		—		—	—							
212	Ties—Yard.		3,228.16		2,905.34	322.82							
	Ties—Other.		92,935.55		70,630.91	22,304.64							
213	Ties — Depreciation — Yard.		—		—	—							
	Ties — Depreciation — Other.		—		—	—							
214	Rails—Yard.		220.98		198.88	22.10							
	Rails—Other.		3,689.45		2,755.85	933.60							
215	Rails — Depreciation — Yard.		—		—	—							
	Rails — Depreciation—Other.		—		—	—							
216	Other Track Material—Yard.		1,591.75		1,432.57	159.18							
	Other Track Material—Other.		6,588.49		5,007.25	1,581.24							
217	Other Track Material—Depreciation—Yard.		—		—	—							
	Other Track Material—Depreciation—Other.		—		—	—							
218	Ballast—Yard.		—		—	—							
	Ballast—Other.		—		—	—							
219	Ballast—Depreciation—Yard.		—		—	—							
	Ballast—Depreciation—Other.		—		—	—							
220	Track Laying and Surfacing—Yard.		4,384.75		3,946.27	438.48							
	Track Laying and Surfacing—Other.		103,558.69		78,704.60	24,854.09							
221	Right-of-Way Fences—Yard.		—		—	—							
	Right-of-Way Fences—Other.		448.79		341.08	107.71							
222	Right-of-Way Fences—Depreciation—Yard.		—		—	—							
	Right-of-Way Fences—Depreciation—Other.		—		—	—							
223	Snow and Sand Fences and Snowsheds—Yard.		—		—	—							
	Snow and Sand Fences and Snowsheds—Other.		—		—	—							
224	Snow & Sand Fences & Snowsheds—Dep'n Yard.		—		—	—							

cupied space in mixed and combination cars, adopted by the Interstate Commerce Commission in Railway Mail Pay Cases, I.C.C. Docket 9200, are used.

The plan is as follows:

The car-foot miles for all full cars devoted to passenger, express, or the mail services were charged to the service for which operated. The car-foot miles for passenger and mail apartments were charged to the respective services.

The car-foot miles of occupied space in the baggage end of the combination cars and in mixed cars were charged to the services using such space and the car-foot miles of unoccupied space in combination and mixed cars were apportioned to passenger, express, and mail services on the ratios of used space in such cars.

From these direct charges and apportionments, ratios were developed and used in the further apportionment of passenger operating expenses (Column 7) to passenger proper, express, and

Statement showing the railway operating expenses of the Georgia and Florida Railroad for the year 1931, etc.—Continued

Primary operating account numbers	General and Primary Account Headings	Interstate Commerce Commission rule governing the separation of operating expenses between freight service and passenger service (See Exhibit No. —)	Total operating expenses for the year 1931	Not related for purpose of this inquiry	Separation of related operating expenses (Col. 4-Col. 5) between freight and passenger service		Basis of separation of amount in column 7 between passenger, express and mail	Separation of amount in column 7 between passenger express and mail			Remarks
					Relating wholly to and apportioned						
					Freight	Passenger		Passenger	Express	Mail	
1	2	3	4	5	6	7	8	9	10	11	12
	Track Expenses—Continued										
	Snow & Sand Fences & Snowsheds—Dep'n—Other.		—		—	—					mail services after direct assignments to the particular passenger services were made.
225	Crossings and Signs—Yard.		$126.17		$113.55	$12.62					
	Crossings and Signs—Other.		2,419.12		1,838.53	580.59					
226	Crossings and Signs—Depreciation—Yard.		—		—	—					
	Crossings and Signs—Depreciation—Other.		—		—	—					
	Total Track Expenses.		276,407.78		211,429.56	64,978.22	Apportioned on car-foot mile ratios. See note in Column 12.	$52,210.00	$4,347.04	$8,421.18	
227	Station and Office Buildings	Apportion common expenses according to proportions of accounts 202 to 213, excluding common expenses in accounts 227-228 and 247-248.	3,233.22		2,457.25	775.97		623.49	51.91	100.57	
228	Station and Office Bldgs.—Depreciation.		—		—	—					
229	Roadway Buildings.	Apportion common expenses according to proportions of accounts 202-226.	1,362.89		1,035.80	327.09	do.	262.82	21.88	42.39	
230	Roadway Buildings—Depreciation.		—		—	—					
	Water and Fuel Stations:	Apportion common	3,690.41		2,841.62	848.79					

231	Water Stations.	expenses according to proportions of accounts 382 and 394 taken together.	—		—	—				
232	Water Stations—Depreciation.		462.38		356.03	106.35				
233	Fuel Stations.		—		—	—				
234	Fuel Stations—Depreciation.									
	Total Water and Fuel Stations.		4,152.79		3,197.65	955.14	do.	767.45	63.90	123.29
343										
235	Shops and Enginehouses.	Apportion common expenses of shops according to proportions of accounts 308, 311, 314, 317, 320, 323, and 326, excluding common expenses in account 326; of enginehouses according to proportions of accounts 388 and 400.	3,055.24		2,291.43	763.81	do.	613.72	51.10	98.99
236	Shops and Enginehouses—Depreciation.		—		—	—				
237	Grain Elevators.	Assign directly or apportion according to facts in individual instances.	—		—	—				
238	Grain Elevators—Depreciation.		—		—	—				
239	Storage Warehouses.		—		—	—				
240	Storage Warehouses—Depreciation.		—		—	—				
241	Wharves and Docks.		—		—	—				
242	Wharves and Docks—Depreciation.		—		—	—				
243	Coal and Ore Wharves.		—		—	—				
244	Coal and Ore Wharves—Depreciation.		—		—	—				
245	Gas Producing Plants.		—		—	—				
246	Gas Producing Plants—Depreciation.		—		—	—				
247	Telegraph and Telephone Lines.	Apportion common expenses according to proportions of accounts 202 to 273, excluding common expenses in accounts 227-228 and 247-248.	2,024.04		1,538.27	485.77	do.	390.32	32.50	62.95
248	Telegraph and Telephone Lines—Depreciation.		—		—	—				

Statement showing the railway operating expenses of the Georgia and Florida Railroad for the year 1931, etc.—Continued

Primary operating account numbers	General and Primary Account Headings	Interstate Commerce Commission rule governing the separation of operating expenses between freight service and passenger service (See Exhibit No. —)	Total operating expenses for the year 1931	Not related for purpose of this inquiry	Separation of related operating expenses (Col. 4—Col. 5) between freight and passenger service		Basis of separation of amount in column 7 between passenger, express and mail	Separation of amount in column 7 between passenger, express and mail			Remarks
					Relating wholly to and apportioned						
					Freight	Passenger		Passenger	Express	Mail	
1	2	3	4	5	6	7	8	9	10	11	12
249	Signals and Interlockers.	Apportion common expenses on basis of transportation service locomotive miles, including switching locomotive-miles.	$116.42		$78.00	$38.42	Apportioned on car-foot mile ratios.	$30.87	$2.57	$4.98	
250	Signals and Interlockers—Depreciation.		—		—	—					
251	Power Plant Dams, Canals, and Pipe Lines.	Assign according to the facts in individual instances.	—		—	—					
252	Power Plant Dams, Canals, and Pipe Lines—Dep'n.		—		—	—					
253	Power Plant Buildings.		—		—	—					
254	Power Plant Buildings—Depreciation.		—		—	—					
255	Power Substation Buildings.		—		—	—					
256	Power Substation Buildings—Depreciation.		—		—	—					
257	Power Transmission Systems.		—		—	—					
258	Power Transmission Systems—Depreciation.		—		—	—					
259	Power Distribution Systems.		—		—	—					
260	Power Distribution Systems—Depreciation.		—		—	—					
261	Power Line Poles and Fixtures.		—		—	—					

262	Power Line Poles and Fixtures—Depreciation.		—		—	—				
263	Underground Conduits.		—		—	—				
264	Underground Conduits—Depreciation.		—		—	—				
265	Miscellaneous Structures.		197.85		150.37	47.48	do.	38.15	3.18	6.15
266	Miscellaneous Structures—Depreciation.		—		—	—				
	Paving, Roadway Machines, etc.:									
267	Paving.	Apportion common expenses according to proportions of accounts 202 to 226.	52.78		40.11	12.67				
268	Paving—Depreciation.		—		—	—				
269	Roadway Machines.		5,963.90		4,532.57	1,431.33				
270	Roadway Machines—Depreciation.		—		—	—				
271	Small Tools and Supplies		4,305.73		3,272.35	1,033.38				
272	Removing Snow, Ice, and Sand.		—		—	—				
273	Assessments for Public Improvements.		—		—	—				
	Total Paving, Roadway Machines, etc.		10,322.41		7,845.03	2,477.38	do.	1,990.57	165.74	321.07
	Injuries to Persons, etc.:									
274	Injuries to Persons.	When not determined by facts in individual instances these expenses should be apportioned according to proportions of accounts 202 to 273, inclusive, excluding common expenses in accounts 227–228 and 247–248.	829.00		630.04	198.96				
275	Insurance.		1,444.31		1,097.68	346.63				
276	Stationery and Printing.		668.16		507.80	160.36				
277	Other expenses.		5.00		3.80	1.20				
	Total Injuries to Persons, etc.		2,946.47		2,239.32	707.15	do.	568.19	47.31	91.65
			4,676.09		3,098.18	1,577.91				
	Maintaining Joint Tracks, etc.:									
278	Maintaining Joint Tracks, Yards, and other Facilities—Dr.	Joint facilities should, as far as practicable, be treated individually, according to the use made of them by the reporting carrier, regardless of the nature of their use by other carriers, using the appropriate bases indicated for preceding accounts.	619.03		470.46	148.57				
279	Maintaining Joint Tracks, Yards, and other Facilities—Cr.		4,075.06		2,627.72	1,429.34	do.	1,148.48	95.62	185.24
	Total, Net Dr.		335,144.04		255,613.98	79,530.06		63,902.40	5,320.56	10,307.10
	Total Maintenance of Way and Structures.									

Statement showing the railway operating expenses of the Georgia and Florida Railroad for the year 1931, etc.—Continued

Primary operating account numbers	General and Primary Account Headings	Interstate Commerce Commission rule governing the separation of operating expenses between freight service and passenger service (See Exhibit No. —)	Total operating expenses for the year 1931	Not related for purpose of this inquiry	Separation of related operating expenses (Col. 4–Col. 5) between freight and passenger service		Basis of separation of amount in column 7 between passenger, express and mail	Separation of amount in column 7 between passenger, express and mail			Remarks
					Relating wholly to and apportioned						
					Freight	Passenger		Passenger	Express	Mail	
1	2	3	4	5	6	7	8	9	10	11	12
301	II. Maintenance of Equipment: Superintendence.	Apportion common expenses according to frieght and passenger proportions of the aggregate of all primary accounts in General Account II, Maintenance of Equipment, omitting common expenses in accounts 301 and 329–337, inclusive.	$16,218.28		$12,163.71	$4,054.57	Apportioned on car-foot mile ratios.	$3,257.85	$271.25	$525.47	
344											
302	Shop Machinery: Shop Machinery.	Apportion common expenses according to proportions of accounts 308, 311, 314, 317, 320, 323, and 326 combined.	2,688.73		2,016.55	672.18	do.	540.10	44.97	87.11	
308	Shop Machinery—Depreciation.		—		—	—		—	—	—	
	Power Plants:	Apportion common expenses on basis of power used.									
304	Power Plant Machinery.		—		—	—		—	—	—	
305	Power Plant Machinery—Depreciation.		—		—	—		—	—	—	

306	Power Substation Apparatus.		—		—	—		—	—	—	
307	Power Substation Apparatus—Depreciation.		—		—	—		—	—	—	
308	Steam Locomotives—Repairs.	The division should be actual—that is, the repairs of road locomotives assigned exclusively to passenger service should be kept distinct from repairs of road locomotives assigned exclusively to freight service. In cases in which locomotives are not run exclusively in one service or the other the repairs of each locomotive, or class of locomotives, should be divided according to the mileage of the individual locomotive or class. Mixed-train locomotive mileage, for the purpose of this account, should be divided on the basis of car-miles in mixed-trains. Repairs of locomotives in yard service should be divided according to the freight and the passenger yard switching locomotive-miles.	101, 773. 41		72, 344. 73	29, 428. 68	do.	23, 645. 94	1, 968. 7 8	3, 813. 96	
	Steam Locomotives—Depreciation and Retirements.	Assign directly, as far as practicable, and apportion the unassigned remainder according to the proportions of account 308.									
309	Steam Locomotives—Depreciation.		8, 856. 24		5, 933. 68	2, 922. 56	do.	2, 348. 28	195. 52	378. 76	
310	Steam Locomotives—Retirements.		—		—	—		—	—	—	

Statement showing the railway operating expenses of the Georgia and Florida Railroad for the year 1931, etc.—Continued

Primary operating account numbers	General and Primary Account Headings	Interstate Commerce Commission rule governing the separation of operating expenses between freight service and passenger service (See Exhibit No. —)	Total operating expenses for the year 1931	Not related for purpose of this inquiry	Separation of related operating expenses (Col. 4—Col. 5) between freight and passenger service		Basis of separation of amount in column 7 between passenger, express and mail	Separation of amount in column 7 between passenger, express and mail			Remarks
					Relating wholly to and apportioned						
					Freight	Passenger		Passenger	Express	Mail	
1	2	3	4	5	6	7	8	9	10	11	12
	Other Locomotives—Repairs, Depreciation, and Retirements:	Treat in accordance with the methods used for accounts 308-310, substituting, however, the percentages produced from other than steam locomotives.									
311	Other Locomotives—Repairs.		—		—	—		—	—		
312	Other Locomotives—Depreciation.		—		—	—		—	—		
313	Other Locomotives—Retirements.		—		—	—		—	—		
	Freight-Train Cars-Repairs, Depreciation, and Retirements.	Assign directly.									
314	Freight-Train Cars—Repairs		$44,298.78		$44,298.78	—					
315	Freight-Train—Cars Depreciation.		34,659.23		34,659.23	—					
316	Freight-Train Cars—Retirements.		282.59		282.59	—					
	Total Freight-Train Cars.		79,240.60		79,240.60						
	Passenger-Train Cars—Repairs, Depreciation, and Retirements:	Assign directly.									
317	Passenger-Train Cars—Repairs.		17,349.91		—	$17,349.91					
318	Passenger-Train Cars—Depreciation.		2,182.92		—	2,182.92					

319	Passenger-Train Cars—Retirements.		—		—	—				
	Total Passenger-Train Cars.		19,532.83			19,532.83	Apportioned on car-foot mile ratios.	15,694.61	1,306.76	2,531.46
	Motor Equipment of Cars—Repairs, Depreciation, and Retirements:	Assign according to service to which motor-equipped cars are assigned.								
320	Motor Equipment of Cars—Repairs.		—		—	—				
321	Motor Equipment of Cars—Depreciation.		—		—	—				
322	Motor Equipment of Cars—Retirements.		—		—	—				
	Floating Equipment—Repairs, Depreciation, and Retirements:	Apportion according to use made of the floating equipment.								
323	Floating Equipment—Repairs.		—		—	—				
324	Floating Equipment—Depreciation.		—		—	—				
325	Floating Equipment—Retirements.		—		—	—				
	Work Equipment—Repairs, Depreciation, and Retirements:	Apportion common expenses according to [illegible]ions of ac[illegible]2 to 273, omitt[illegible]mmon expens[illegible] in accounts 227–228 and 247–248.								
326	Work Equipment—Repairs.		3,230.31		2,455.04	775.27				
327	Work Equipment—Depreciation.		1,739.52		1,322.04	417.48				
328	Work Equipment—Retirements.		—		—	—				
	Total Work Equpment.		4,969.83		3,777.08	1,192.75	do.	958.38	79.79	154.58
	Miscellaneous Equipment—Repairs, Depreciation, and Retirements:	Apportion common expenses according to percentages used to divide common expenses of account 301.								
329	Miscellaneous Equipment—Repairs.		—		—	—				
330	Miscellaneous Equipment—Depreciation.		397.05		297.79	99.26				

Statement showing the railway operating expenses of the Georgia and Florida Railroad for the year 1931, etc.—Continued

Primary operating account numbers	General and Primary Account Headings	Interstate Commerce Commission rule governing the separation of operating expenses between freight service and passenger service (See Exhibit No. —)	Total operating expenses for the year 1931	Not related for purpose of this inquiry	Separation of related operating expenses (Col. 4—Col. 5) between freight and passenger service		Basis of separation of amount in column 7 between passenger, express and mail	Separation of amount in column 7 between passenger, express and mail			Remarks
					Relating wholly to and apportioned						
					Freight	Passenger		Passenger	Express	Mail	
1	2	3	4	5	6	7	8	9	10	11	12
	II. Miscellaneous Equipment—Continued.										
331	Miscellaneous Equipment—Retirements.		$112.50		$84.37	$28.13					
	Total Miscellaneous Equipment.		509.55		382.16	127.39	Apportioned on car-foot mile ratios.	$102.36	$8.52	$16.51	
345	Injuries to Persons; Insurance; Stationery and Printing; and Other Expenses:	Apportion common expenses according to percentages used to divide common expenses of account 301.					do.				
332	Injuries to Persons.		601.02		450.76	150.26					
333	Insurance.		1,857.92		1,393.44	464.48					
334	Stationery and Printing.		720.35		540.26	180.09					
335	Other Expenses.		—		—	—					
	Total Injuries to Persons.		3,179.29		2,384.46	794.83	do.	638.65	53.17	103.01	
	Joint equipment at terminals:	Apportion each class of common expenses on bases prescribed for the corresponding operating expense accounts, as far as practicable. The									
336	Maintaining Joint Equipment—Dr.		—		—	—					
337	Maintaining Joint Equipment—Cr.		—		—	—					

		remainder, if any, should be apportioned according to percentages used to divide common expenses of account 301.								
	Total Maintenance of Equipment.		236,968.76	178,242.97	58,725.79		47,186.17	3,928.76	7,610.86	
	III. Traffic Expenses:									
	Superintendence; Outside Agencies; Advertising Traffic Associations; Fast Freight Lines; Industrial and Immigration Bureau; Insurance; Stationery and Printing; and Other Expenses:	Assign directly, as far as practicable, and apportion the unassigned remainder on the basis of the directly assigned expenses in this general account.								
351	Superintendence.		32,253.37	27,121.83	5,131.54	do	4,123.19	343.30	665.05	
352	Outside Agencies.		71,723.27	71,723.27	—					
353	Advertising.		1,014.32	277.64	736.68	Assigned directly.	736.68			
354	Traffic Associations.		2,088.05	1,933.25	154.80	do	154.80			
355	Fast Freight Lines.		—	—	—					
356	Industrial and Immigration Bureaus.		6,658.64	6,259.12	399.52	do	399.52			
357	Insurance.		67.53	63.48	4.05	do	4.05			
358	Stationery and Printing.		5,280.88	4,894.69	386.19	Apportioned on car-foot mile ratios.	310.30	25.84	50.05	
359	Other expenses.		—	—	—					
	Total Traffic Expenses.		119,086.06	112,273.28	6,812.78		5,728.54	369.14	715.10	
	IV. Transportation—Rail Line:									
371	Superintendence.	Apportion common expenses according to freight and passenger proportions of the aggregate of all primary accounts in General Account IV. Transportation—Rail line, omitting the common expenses in accounts 372, 376, 390-391, 405, 407, 410-417, and 420.	18,293.23	14,268.72	4,024.51	do	3,233.69	259.24	521.58	

Statement showing the railway operating expenses of the Georgia and Florida Railroad for the year 1931, etc.—Continued

Primary operating account numbers	General and Primary Account Headings	Interstate Commerce Commission rule governing the separation of operating expenses between freight service and passenger service (See Exhibit No. —)	Total operating expenses for the year 1931	Not related for purpose of this inquiry	Separation of related operating expenses (Col. 4–Col. 5) between freight and passenger service		Basis of separation of amount in column 7 between passenger, express and mail	Separation of amount in column 7 between passenger, express and mail			Remarks
					Relating wholly to and apportioned						
					Freight	Passenger		Passenger	Express	Mail	
1	2	3	4	5	6	7	8	9	10	11	12
	IV. Transportation—Rail Line—Continued.										
372	Dispatching Trains.	Apportion common expenses on the basis of transportation train-miles. Mixed train-miles for the purpose of this account should be divided on the basis of car-miles in mixed trains.	$8,987.17		$5,841.66	$3,145.51	Apportioned on car-foot mile ratios.	$2,527.42	$210.43	$407.66	
373	Station Employees.	Apportion common expenses according to percentages used to divide common expenses of account 371.	109,253.61	$779.94	91,666.29	16,807.38	do.	13,504.73	1,124.41	2,178.24	
374	Weighing, Inspection and Demurrage Bureaus.	Assign directly.	3,029.82		3,029.82	—					
375	Coal and Ore Wharves.	Assign directly.	—		—	—					
376	Station Supplies and Expenses.	Apportion common expenses according to percentages used to divide common expenses of account 371.	4,141.64		3,230.48	911.16	do.	732.12	60.96	118.08	
	Yard Transportation Expenses:	Assign directly, as far as practicable, and apportion the unassigned re-									
377	Yardmasters and Yard Clerks.		6,899.61		6,209.65	689.96					

378	Yard Conductors and Brakeman.	mainder in accordance with the freight and the passenger yard switching-locomotive mileage.	13,571.46		12,214.31	1,357.15					
379	Yard Switch and Signal Tenders.		—		—	—					
380	Yard Enginemen.		8,451.17		7,606.05	845.12					
381	Yard Motormen.		—		—	—					
382	Fuel for Yard Locomotives.		8,438.07		7,594.26	843.81					
383	Yard Switching Power Produced.		—		—	—					
384	Yard Switching Power Purchased.		—		—	—					
385	Water for Yard Locomotives.		80.54		72.49	8.05					
386	Lubricants for Yard Locomotives.		102.89		92.60	10.29					
387	Other Supplies for Yard Locomotives.		—		—	—					
388	Engine Expenses—Yard.		119.02		107.12	11.90					
389	Yard Supplies and Expenses.		344.36		309.92	34.44					
	Total Yard Transportation Expenses.		38,007.12		34,206.40	3,800.72	do.	3,053.88	254.27	492.57	
346											
	Operating Joint Yards and Terminals:	Apportion each class of common expenses on bases prescribed for the corresponding operating expense accounts as far as practicable. The remainder, if any, should be divided according to the percentages used to divide the common expenses of account 371.									
390	Operating Joint Yards and Terminals—Dr.		12,144.38	689.04	7,795.86	3,659.48	do.	2,940.39	244.82	474.27	
391	Operating Joint Yards and Terminals—Cr.		—	—	—	—					
	Train Enginemen and Train Motormen.	Assign directly, as far as possible.									
392	Train Enginemen.	Apportion expenses for mixed-train service on the basis of car-miles in mixed trains. Apportion other common expenses on the basis of the direct assignments.	75,391.44		54,940.91	20,450.53					
393	Train Motormen.		853.38			853.38					
	Total		76,244.82		54,940.91	21,303.91	do.	17,117.69	1,425.23	2,760.99	

Statement showing the railway operating expenses of the Georgia and Florida Railroad for the year 1931, etc.—Continued

Primary operating account numbers	General and Primary Account Headings	Interstate Commerce Commission rule governing the separation of operating expenses between freight service and passenger service (See Exhibit No. —)	Total operating expenses for the year 1931	Not related for purpose of this inquiry	Separation of related operating expenses (Col. 4–Col. 5) between freight and passenger service		Basis of separation of amount in column 7 between passenger, express and mail	Separation of amount in column 7 between passenger, express and mail			Remarks
					Relating wholly to and apportioned						
					Freight	Passenger		Passenger	Express	Mail	
1	2	3	4	5	6	7	8	9	10	11	12
	IV. Transportation —Rail Line—Continued.										
394	Fuel for Train Locomotives.	Assign directly, as far as possible. Apportion expenses for mixed-train service on the basis of car-miles in mixed trains. Apportion other common expenses, which should be relatively small, on the basis of the direct assignment. Any abnormal conditions, such as a widely different price paid for fuel in one service as compared with that in the other, should be noted in annual reports.	$117,301.61		$89,176.33	$28,125.28	Apportion on car-foot mile ratios.	$22,598.66	$1,881.58	$3,645.04	
	Train Power Produced and Purchased:	Apportion common expenses according									
395	Train Power Produced.	to purpose for	—		—	—					

396	Train Power Purchased.	which power is used.	—		—	—				
397	Water for Train Locomotives.	Apportion common expenses according to proportions of account 394.	6,791.31		5,161.40	1,629.91	do.	1,309.63	100.04	211.24
	Lubricants and Other Supplies for Train Locomotives.	Observe tenor of directions under accounts 392–393.								
398	Lubricants for Train Locomotives.		1,652.97		1,173.73	479.24				
399	Other Supplies for Train Locomotives.		1,221.16		911.45	309.71				
	Total.		2,874.13		2,085.18	788.95	do.	633.92	52.78	102.25
400	Enginehouse Expenses—Train.	Expenses at each enginehouse should be divided according to the number of engines handled for each service. Where various classes of engines differ considerably in expense of handling at an enginehouse, an arbitary should be adopted representing such variation and the number of engines handled modified accordingly. Mixed-train locomotive expenses should be divided on the basis of car-miles in mixed trains.	21,706.73		14,543.51	7,163.22	do.	5,755.65	479.22	928.35
	Trainmen and Train Supplies and Expenses.	Observe tenor of directions under accounts 392–393.								
401	Trainmen.		88,891.97		70,340.97	18,551.00				
402	Train Supplies and Expenses.		7,062.08		2,393.32	4,668.76				
	Total.		95,954.05		72,734.29	23,219.76	do.	18,657.08	1,553.40	3,009.28
403	Operating Sleeping Cars.	Assign to passenger.	—		—	—				
	Signal and Interlocker Operation; Crossing Protection:	Apportion common expenses on the basis of transportation locomotive-								
404	Signal and Interlocker Operation.		170.92		114.52	56.40				

Statement showing the railway operating expenses of the Georgia and Florida Railroad for the year 1931, etc.—Continued

Primary operating account numbers	General and Primary Account Headings	Interstate Commerce Commission rule governing the separation of operating expenses between freight service and passenger service (See Exhibit No. —)	Total operating expenses for the year 1931	Not related for purpose of this inquiry	Separation of related operating expenses (Col. 4–Col. 5) between freight and passenger service		Basis of separation of amount in column 7 between passenger, express and mail	Separation of amount in column 7 between passenger, express and mail			Remarks
					Relating wholly to and						
					Freight	Passenger		Passenger	Express	Mail	
1	2	3	4	5	6	7	8	9	10	11	12
	IV. Transportation—Rail Line—Continued.										
405	Crossing Protection.	miles, including switching locomotive-miles.	$10.05		$6.73	$3.32					
	Total.		180.97		121.25	59.72	Apportion on car-foot mile ratios.	$47.98	$4.00	$7.74	
406	Drawbridge Operation.	Apportion common expenses according to percentages used to divide common expenses of account 371.	410.38		320.10	90.28	do.	72.54	6.04	11.70	
407	Telegraph and Telephone Operation.	Apportion common expenses according to percentages used to divide common expenses of account 371.	177.24		138.25	38.99	do.	31.33	2.61	5.05	
408	Operating Floating Equipment.	Apportion common expenses according to the use made of the floating equipment.	—		—	—					
409	Express Service.	Assign to Passenger	—		—	—					

410	Stationery and Printing.	Apportion common expenses according to percentages used to divide common expenses of account 371.	5,559.83	4,336.67	1,223.16	do.	982.81	81.83	158.52
347									
411	Other Expenses.	Apportion common expenses according to percentages used to divide common expenses of account 371.	691.09	539.05	152.04	do.	122.17	10.17	19.70
	Operating Joint Tracks and Facilities:	Apportion each class of expense on							
412	Operating Joint Tracks and Facilities—Dr.	bases prescribed	3,469.83	262.56	3,207.27	do.	2,577.04	214.57	415.66
413	Operating Joint Tracks and Facilities—Cr.	for the corresponding operating expense accounts as far as practicable. The remainder, if any, should be apportioned according to percentages used to divide common expenses of account 371.	—	—	—				
414	Insurance.	Apportion common expenses according ing to percentages used to divide common expenses of account 371.	1,993.64	1,555.04	438.60	do.	352.42	29.34	56.84
415	Clearing Wrecks.	Assign directly, as far as practicable, according to service in which wreck occurs and not according to responsibility for wreck. Apportion unassigned remainder according to percentages used to divide common expenses of account 371.	2,464.82	1,922.56	542.26	do.	435.70	36.28	70.28
	Damage to Property and Damage to Live Stock on Right of Way:	Observe tenor of directions for account 415.							
416	Damage to Property.		1,628.07	1,269.89	358.18				

Statement showing the railway operating expenses of the Georgia and Florida Railroad for the year 1931, etc.—Continued

Primary operating account numbers	General and Primary Account Headings	Interstate Commerce Commission rule governing the separation of operating expenses between freight service and passenger service (See Exhibit No. —)	Total operating expenses for the year 1931	Not related for purpose of this inquiry	Separation of related operating expenses (Col. 4–Col. 5) between freight and passenger service		Basis of separation of amount in column 7 between passenger, express and mail	Separation of amount in column 7 between passenger, express and mail			Remarks
					Relating wholly to and apportioned						
					Freight	Passenger		Passenger	Express	Mail	
1	2	3	4	5	6	7	8	9	10	11	12
	IV. Transportation—Rail Line—Continued.										
417	Damage to Live Stock on Right-of-Way.		$3,928.50		$3,064.23	$864.27					
	Total.		5,556.57		4,334.12	1,222.45	Apportion on car-foot mile ratios.	$982.24	$81.78	$158.43	
418	Loss and Damage—Freight.	Assign to Freight	10,773.26		10,773.26	—					
419	Loss and Damage—Baggage.	Assign to passenger	30.45		30.45	—					
420	Injuries to Persons.	Observe tenor of directions for account 415.	8,706.25		6,790.87	1,915.38	do.	1,539.01	128.14	248.23	
	Total Transportation—Rail Line.		554,743.95	1,466.98	429,805.03	123,469.94		99,208.10	8,260.14	16,001.70	
	V. Transportation—Water Line:										
431	Operation of Vessel.	Assign directly as far as practicable. Apportion remainder on appropriate units according to local conditions.	—		—	—					
432	Operation of Terminals.		—		—	—					
433	Incidental.		—		—	—					
	VI. Miscellaneous Operations:	Observe tenor of directions under General Account V. Transportation—Water Line.									
441	Dining and Buffet Service.		—		—	—					
442	Hotels and Restaurants.		—		—	—					
443	Grain Elevators.										
444	Stockyards.		2,545.45	2,545.45							
445	Producing Power Sold.		—		—	—					
446	Other Miscellaneous Operations.		—		—	—					

451	VII. General Expenses: Salaries and Expenses of General Officers.	Assign directly, as far as practicable, and apportion remainder according to proportions of accounts 201 to 446.	17,024.77		13,279.32	3,745.45				
452	Salaries and Expenses of Clerks and Attendants.		43,037.03		35,290.39	7,746.64				
453	General Office Supplies and Expenses.		4,178.73		3,259.41	919.32				
454	Law Expenses.		13,948.84		10,880.10	3,068.74				
455	Insurance.		624.06		486.77	137.29				
456	Relief Department Expenses.		—		—	—				
457	Pensions.		107.15		83.58	23.57				
458	Stationery and Printing.		4,008.29		3,126.47	881.82				
459	Valuation Expenses.		3,461.57		2,700.02	761.55				
460	Other Expenses.		24.27		18.93	5.34				
461	General Joint Facilities—Dr.		488.36		274.17	214.19				
462	General Joint Facilities—Cr.		—		—	—				
	Total General Expenses.		86,903.07		69,399.16	17,503.91	do.	14,064.40	1,171.00	2,268.51
	VIII. Transportation For Investment, Cr.	The method of deciding upon the amount of this credit will determine the freight and the passenger proportion.	Red 813.74		Red 813.74	—				
	Grand Total Railway Operating Expenses.		1,334,577.59	4,014.43	1,044,520.68	286,042.48		230,089.61	19,049.60	36,903.27
348	Adjustment of Revenue Account—Special Service Train.			1,247.33	Red 1,007.09	Red 240.24	do.	Red 193.03	Red 16.07	Red 31.14
	Adjustment for Mail Motor Cars.			979.36		Red 979.36	do.	Red 786.92	Red 65.52	Red 126.92
	Adjustment of Station, Train and Boat Privileges; Rent of Buildings and Other Property and Miscellaneous Revenue Accounts.			720.41	Red 565.52	Red 154.89	do.	Red 124.46	Red 10.36	Red 20.07
	Adjustment, Revenue Accounts, Parcel Room and Storage—Baggage.			.53		Red .53	do.	Red .42	Red .04	Red .07
	Grand Total After Adjustments (Revised exhibit 745, line 5, columns 2 to 6, and 14 to 20, inclusive).		1,334,577.59	6,962.06	[a]1,042,948.07	[b]284,667.46		[c]228,984.78	[d]18,057.61	[e]36,725.07

[a] Of the total amount segregated to freight service, $450,842.06 was directly assigned and $592,106.01, or 56.77% was apportioned.
[b] Of the total amount segregated to passenger service, $113,992.17 was directly assigned and $170,675.29, or 99.96% was apportioned.
[c] Of the total passenger proportion, $1,286.06 was directly assigned and $228,794.56, or 99.44% was apportioned to passenger proper.
[d] Of the total passenger proportion, $18,057.61, or 100% was apportioned to express service.
[e] Of the total passenger proportion, $36,725.07, or 100% was apportioned to mail service.

Statement showing the method used to separate the investment in property of the Georgia and Florida Railroad for the calendar year 1931 (1) between freight and passenger services and (2) to further separate the passenger investment thus obtained between passenger, express, and mail services in the Georgia and Florida Railway Railway Mail Pay Case, Docket 9200, filed April 1, 1931

[Figures taken from Post Office Department Exhibit 745]

Kind of property	Method used to separate total investment in property between freight and passenger service	Total investment in property	Unrelated to this inquiry	Separation of related investment between freight and passenger		Method used to separate passenger investment in property between passenger, express, and mail services	Separation of amount shown in column 6		
				Relating wholly to and apportioned to freight	Related wholly to and apportioned to passenger		Relating wholly to, and apportioned to passenger service	Relating wholly to, and apportioned to express service	Relating wholly to, and apportioned to mail service
1	2	3	4	5	6	7	8	9	10
Road	Operating expense ratios.	$20,205,052.74	$4,340,590.31	$12,462,884.39	$3,401,578.04	Operating expense ratios.	$2,736,229.37	$226,545.10	$438,803.57
Equipment	Charged directly	1,580,912.09		1,422,274.08	158,638.01	Charged directly. Apportioned on mixed and combination car-foot mile ratios	39,575.87		225.00
						of space ascertained from cost study. (Authorized space for the mails.)	85,133.87	12,487.98	21,215.29
Equipment depreciation.	Ratios for final equipment separation.	D 233,114.31		D 209,732.94	D 23,381.37	Ratios for final equipment separation.	D 18,380.10	D 1,840.11	D 3,161.16
Total investment		21,552,850.52	4,340,590.31	* 13,675,425.53	† 3,536,834.68		2,842,559.01	237,192.97	‡ 457,082.70

* 91.13 per cent of freight investment was based on apportionments.
† 96.18 per cent of passenger investment was based on apportionments.
‡ 99.95 per cent of mail investment was based on apportionments.
D Indicates red figures.

352 *Post Office Department Exhibit 763, I. C. C. Docket No. 9200*

Statement showing the comparison of the expense per car-mile and car-foot mile for passenger service as a whole compared with the revenue received for the transportation of the mail per car-mile and car-foot mile, for the Georgia and Florida Railroad for the calendar year 1931

(1)	Passenger car-miles operated (Post Office Department Exhibit 745, line 1, column 6)	867, 964
(2)	Passenger car-foot miles operated (Post Office Department Exhibit 745, line 3, column 6)	47, 965, 379
(3)	Passenger railway operating expense (Post Office Department Exhibit 745, line 5, column 6)	$284, 667. 46
(4)	Passenger railway tax accruals (Post Office Department Exhibit 745, line 7, column 6)	17, 632. 45
(5)	Passenger equipment and joint facility rents—Net balance (Post Office Department Exhibit 745, line 10, column 6)	12, 972. 90
(6)	Total passenger railway operating expenses including railway tax accruals and equipment and joint facility rents	$315, 272. 81
(7)	Revenue received for the transportation of the mails (Post Office Department Exhibit 745, line 4, column 18)	$35, 728. 01
(8)	Car-foot miles of authorized mail service (Miles times length of unit, Post Office Department Exhibit 742, sheet 4)	3, 469, 790. 70
(9)	Average passenger car-mile expense (line 6 divided by line 1) cents	36. 32
(10)	Average passenger car-foot mile expense (line 6 divided by line 2) cents	0. 6573
(11)	Revenue per car-foot mile received for transportation of the mails (line 7 divided by line 8) cents	1. 0297
(12)	Expense per car-foot mile for passenger service as a whole (item 10) cents	. 6573
(13)	Excess revenue for mail service per car-foot mile over average cost for all passenger service operations cents	. 3724
(14)	Average length passenger car operated (line 2 divided by line 1) feet	55. 26
(15)	Excess revenue per car-mile for the mail service, based on the average length operated (line 13 times line 14) cents	* 20. 58

* There were no full mail cars operated. For comparative purposes only the excess revenue per car mile based on this hypothesis is shown.

354 *Post Office Department Exhibit 764, I. C. C. Docket No. 9200*

Comparison of the revenue per pro-rated 60-foot car mile for the calendar year 1931 (1) for passenger, express, and mail services under Plan 2, Post Office Department Exhibit 745, (Sheet 1), and (2) comparison of the revenue per pro-rated 60-foot car mile for mail service on the basis of authorized space only without inclusion of an apportionment of unoccupied space, with the revenue per pro-rated 60-foot car mile for all other passenger services on the basis of the full charge thereto of all unoccupied space, Post Office Department Exhibit 745 (Sheet 2), Georgia and Florida Railway Mail Pay Case, Docket 9200, filed April 1, 1931

	Pro-rated 60-foot car-mile revenue		
	Passenger	Express	Mail
Under Post Office Department Plan 2	*Cents* 5.66	*Cents* 14.20	*Cents* 34.49
Percent mail revenue to passenger revenue per pro-rated 60-foot car mile			*Percent* 609
Percent mail revenue to express revenue per pro-rated 60-foot car mile			251

	Pro-rated 60-foot car-mile revenue	
	Mail	All other passenger
On basis of authorized space for the mails without inclusion of an apportionment of unoccupied space and with full charge of unoccupied space to all other passenger services	*Cents* 61.82	*Cents* 5.92
Percent mail revenue to other passenger revenue		*Percent* 1044

356 GEORGIA & FLORIDA RAILWAY EXHIBIT 765

I. C. C. Docket No. 9200

Statement showing excess revenue per car-foot for space actually used for passenger service

(1) Passenger car-miles operated (Post Office Department Exhibit 745, line 1, column 6)		867,964
(2) Passenger car-foot miles operated (Post Office Department Exhibit 745, line 3, column 6)		47,965,379
(3) Passenger railway operating expense (Post Office Department Exhibit 745, line 5, column 6)		$284,667.46
(4) Passenger railway tax accruals (Post Office Department Exhibit 745, line 7, column 6)		$17,632.45
(5) Passenger equipment and joint facility rents—Net balance (Post Office Department Exhibit 745, line 10, column 6)		$12,972.90
(6) Total passenger railway operating expenses including railway tax accruals and equipment and joint facility rents		$315,272.81
(7) Revenue received for the transportation of passengers (Post Office Department Exhibit 745, line 4, column 14)		$36,322.91
(8) Car-foot passenger miles actually occupied		1,256,719
Passenger miles—Revenue	1,256,719	
Car-feet per passenger (Estimated)	1	
(9) Average passenger car-mile expense (line 6 divided by line 1)	cents	36.32

Statement showing excess revenue per car-foot for space actually used for passenger service—Continued

(10)	Average passenger car-foot mile expense (line 6 divided by line 2)—cents	0.6573
(11)	Revenue per used car-foot mile received for transportation of passengers (line 7 divided by line 8)—cents	2.8903
(12)	Expense per car-foot mile for passenger service as a whole (item 10)	.6573
(13)	Excess revenue for passenger service per used car-foot mile over average cost for all passenger service operations—cents	2.2330

358 *Georgia & Florida R. R. Exhibit 766*

I. C. C. Docket No. 9200

The Commisison's Express Recognition of the Georgia & Florida as as a Weak Short Line

In Southern Class Rate Investigation (100 I. C. C. 513, 650, 652, 653, 729), wherein the Commission prescribed comprehensive scales of joint class rates, it was considered necessary by the Commission to make extra provision whereby weak short line railroads usually referred to as "relief lines", were authorized to supplement, where they could, their respective shares of the joint rates so provided, by adding thereto certain arbitraries.

Various weak and short lines were specifically considered, and the Georgia & Florida was included in the list of weak short lines, which because of being such were authorized to add these extra arbitraries.

The Commission's express recognition of the Georgia & Florida as a weak line entitled to as much consideration as smaller short lines is demonstrated in the following extracts from its report in said Southern Class Rate Investigation:

Page 65:

"Weak Lines and Short Lines

"Certain financially weak carriers of fair size and numerous so-called short lines seek special treatment. The weak lines, which made such a plea at the hearings are these:

"Gulf, Mobile & Northern.
"Birmingham & Northwestern.
"Tennessee Central.
"New Orleans Great Northern.
"Gulf & Ship Island.
"Mississippi Central.
"Columbus & Greenville.

359 "In this list should be included the Georgia & Florida because of its size, although it was represented at the hearings by the American Short Line Railroad Association."

Page 652: "The record indicates that with this exception, the weak lines which sought special treatment from the outset in this proceeding are reasonably entitled to such relief and likewise many of the short lines which were represented at the hearing. Apparently these weak lines and short lines are the objects of quite general sympathy in southern territory, and there is little disposition to question the fact that many of them need special help of some sort. Most of them are so surrounded by competitive influences, either of other railroads or of motor trucks, that their charges are limited by other factors than public regulation. The problem which they face is to locate the point where higher rates begin to result in diminishing returns."

* * * * * * * *

Pages 653–654: "The plan of making through rates to and from local points on a combination or arbitrary basis is open to objection. Such rates put the territory local to the weak or short line at serious disadvantage and tend to hamper its development. They also run counter to the theory that the financial necessities of weak lines in such cases should be met by the liberal divisions of joint rates. In U. S. v. Abilene & Co. Ry. Co., 265 U. S. 274, the Supreme Court of the United States said, at pages 284–5:

"'It is settled that in determining what the divisions should be, the Commission may, in the public interest, take into consideration the financial needs of a weaker road; and that it may be given a division larger than justice merely as between the parties would suggest' in order to maintain it in effective operation as part of an adequate transportation system,' provided the share left to its connections is 'adequate to avoid a confiscatory result.' Dayton-Goose Creek Ry. Co. 1. United States, 263 U. S. 456, 477; New England Divisions Case, 261 U. S. 184, 194, 195.

"However, as above indicated, there are practical limits to the relief which can be given a weak or short line through adjustment of divisions. In view of the incomplete character of the record and the need for closer investigation of particular cases, our conclusion is that our finding with respect to the local interstate rates of
360 these lines and with respect to the through rates in which they participate with standard lines should be limited to the method by which such rates should be constructed. We therefore find:

"13. That the maximum reasonable class rates for interstate application between points on any of the weak lines or short lines indicated below are, and for the future will be, rates determined by the distance scale of class rates set forth in Appendix K plus arbitraries determined by a distance scale similar to that set forth in Appendix L but not necessarily having the same level; and that the maximum reasonable class rates for interstate application within southern territory between points on such weak lines or short lines

and points on standard lines are, and for the future will be, rates determined by the distance scale of class rates set forth in Appendix K plus arbitraries the same as those employed in the case of local hauls on the weak line or short line in question, for that part of the joint haul which is over the weak line or short line. The weak lines to which this finding applies are those listed on page 650 herein, excepting the Gulf & Ship Island and adding the Atlanta, Birmingham & Atlantic. The short lines are those listed in Appendix M, except such as are under common control or management with standard lines, and excepting also the Live Oak, Perry & Gulf and the South Georgia."

* * * * * * *

Page 729: Exhibit M expressly enumerates the Georgia & Florida along with the Aberdeen & Rockfish, the Northwestern Railroad of South Carolina, the Macon, Dublin & Savannah, the Flint River & Northeastern, the Georgia, Southwestern & Gulf, and numerous others.

Pages 654–655: "The above finding will leave the weak lines and the short lines which it covers free to propose, in connection with the readjustment of class rates in southern territory, in each individual case such arbitraries as they see fit for application to interstate hauls in whole or in part over their lines, subject to such fourth-section relief as they now have or as they may hereafter seek and obtain. It is our hope that the State commissions will then bring to our attention cases, either before or after the rates become effective, where the rates so proposed appear to be unjust and unreasonable, or where the fourth-section relief which has been granted or is sought ought, in their opinion, to be withdrawn or withheld. Shippers served by these lines will, of course, be at liberty also to make complaint, but we hope that they will in the first instance bring such complaints to the attention of the State commissions, for we are desirous, particularly in the case of these little lines, of having the advice and help of the State authorities. One important reason for believing that the interstate rates of these weak lines and short lines can safely be left to be handled in this way is the fact that, as aforesaid, the charges which they may impose to their own financial advantage are now limited by other factors than public regulation.

361 "While the matter of divisions of joint rates is not under consideration in this proceeding, we deem it not inappropriate to express the view that where joint rates between standard lines and weak or short lines are made by the use of arbitraries in the manner above indicated, it is a fair presumption that the division of the standard line should not be greater than it would receive if it were dividing the same rate minus the arbitrary with another standard line, and that the benefit of the arbitrary should accrue wholly to the weak or short line."

363 *Exhibit 767*

Comparison of the Department's Plans 1, 2, and 3

In the original Railway Mail Pay case (56 I. C. C. 1), the merits of various Plans proposed by the carriers and by the Department for allocating the approximate proportions of operating expenses and of a pro rata return upon investment in facilities for mail service were analyzed; carrier plans were disregarded and Plan 2 of the Department was adopted and has been followed ever since.

There being no doctrine of Stare Decisis to prevent, the Department has continued to advance in every subsequent case its Plan 1, and in the last general case (144 I. C. C. 675) it advanced another plan designed as Plan 3.

Plans 1 and 2 were described in 144 I. C. C. 675, 680, as follows:

"The unused space in combination and mixed cars is apportioned by the department to passenger, express, and mail upon two different plans. In plan 2, the apportionment is made according to the method used by us in the original case and used by the carriers in the instant case, that is, in proportion to the space used by each service in other than full cars.

"In plan 1, apartments in combination cars are segregated. Space in passenger apartments is allocated to passenger service, space in mail apartments is allocated to mail service and the unused space in the remainder of the car, or baggage end, combined with the unused space in mixed cars, is apportioned to passenger, express, and mail services on the ratio of space used by each service in the baggage end of combination cars and in mixed cars. The apartments in combination cars are not apportioned any part of the unused space in the baggage end of such cars. Plan 1 is based upon the assumption that an apartment is complete in itself, that it is operated independently of the remainder of the car and is not responsible for any unused space necessarily operated in the said remainder of the car. The department contends this theory is justified upon the ground that an apartment carries its own unused space.

* * * * * * *

"Plan 2 recognizes the fact that an apartment is only a fraction of a car, that the operation of that fraction requires the operation of a whole car and that the operation of a whole car necessarily causes the operation of a certain amount of unused space in the remainder of the car. The justification for apportioning some of this unused space in the service using the apartment is that the car is the unit of operation and that the unused space outside the apartment, necessarily operated in a combination car to supply the space required for service in such cars, is due to the apartment service as much as the services in the baggage end. We have considered the combination car to be a mixed traffic car and have dealt with the unused space therein in the same manner as in any other mixed car irre-

spective of the existence of the partition separating the apartment from the rest of the car."

In that same case, 144 I. C. C. 675, 689, Plan 3 was described as follows;

"Subsequent to the hearing the department submitted another plan, referred to as plan 3, for apportioning unused space in combination and mixed cars. The method is simply to apportion such space in proportion to the total space used by each service, including, in the divisor, space in full cars as well as space in mixed and combination cars.

* * * * * * *

"Plan 3 is based upon a different theory of apportioning unused space from that employed either in plan 1 or plan 2. In all the plans, except in plan 3 and, to a lesser extent, in plan 1, the car is taken as the operating unit. Cars devoted exclusively to one class of service (full cars) are considered properly chargeable only with the unused space in such cars and not with any portion of the unused space in other than full cars. This direct assignment of unused space in full cars is proper because such space is necessarily operated in connection only with the full cars. Cars used for two or more services (combination and mixed cars) are considered to be operated for those services and the unused space therein is considered as necessarily operated in connection with them. Direct assignments of the unused space in such cars is not possible because the amount properly assignable to each service using these cars can not be directly determined. An apportionment must, therefore, be made. This apportionment is made in plan 2 and in the plan used by us in the original proceeding, upon the ratios of space used by each service in such cars the authorized space being taken as the space used in the case of the mail. In plan 3, the unused space in these cars is also apportioned, but the apportionment is made upon the ratios of space used in such cars and the entire space in full cars. This method of apportionment is justified by the department upon the theory that the combination and mixed cars are not operated in common only for the services using them but are operated in direct relationship to full car operation. The department contends that plan 3 is the completion of the method used in plan 2 perfected by extending it to take in the whole train. It is clear, however, that plan 3, in part, rejects the car as the unit and uses the total allocated train space in apportioning the unused space in other than full cars. This is not an extension of plan 2, but a departure from it. It can be justified only if it can be shown that the unused space in combination and mixed cars is necessarily operated in connection with full cars. It is argued that there is a relationship between the space used for baggage in combination and mixed cars and the space in full passenger cars in that baggage is carried for passengers in full cars as well as for passengers in combination cars. The space used for baggage in combination and mixed cars is not measured by the

use made by passengers in full passenger cars. At the most, it is related only to the proportion of space used by the passengers in full cars for whom baggage is carried in combination and mixed cars. No operating relationship is shown in the record between mail space, express space, and miscellaneous space in combination and mixed cars, on the one hand, and mail space, express space, and the services included as miscellaneous, in full cars, on the other. Space in combination and mixed cars is not operated because of the operation of full cars, except to the limited extent noted in connection with baggage, but because of the requirements for service in less than full cars. With respect to mail service, for example, 12 units of space are employed, only 3 of which are full-car units. Of the remainder, two are 30-foot, three are 15-foot, two are 7-foot, and two are 3-foot units. No operating relationship has been shown between the full-car units and the less than full-car units which would warrant charging full cars with some of the unused space in less than full cars.

"It is not necessary further to discuss plan 3. *The method suggested by us in the original proceeding, although not meeting the full claims of either the department or the carriers, is a reasonably fair method of determining the amounts of unoccupied space chargeable to each service.*" (Italics ours.)

Plan 2 for the 1931 test period develops the need for an increase to the Georgia & Florida of 87.40 per cent.

364 Exhibit No. 768, a printed pamphlet issued by the Interstate Commerce Commission, effective July 1, 1914, and entitled "Classification of Train-Miles, Locomotive-Miles and Car-Miles for Steam Roads", is to be printed, and a copy follows:

365 CLASSIFICATION OF TRAIN-MILES, LOCOMOTIVE-MILES, AND CAR-MILES FOR STEAM ROADS, PRESCRIBED BY THE INTERSTATE COMMERCE COMMISSION, IN ACCORDANCE WITH SECTION 20 OF THE ACT TO REGULATE COMMERCE

Issue of 1914, Effective on July 1, 1914

366 ORDER

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 19th day of May A. D. 1914.

The subject of a Uniform System of Accounts to be prescribed for and kept by carriers being under consideration, the following order was entered:

It is ordered, That the Classification of Train-miles, Locomotive-miles, and Car-miles for Steam Roads and the text pertaining thereto, embodied in printed form to be hereafter known as Issue of 1914, a copy of which is now before this Commission, be, and is hereby, approved; that a copy thereof duly authenticated by the Secretary of the Commission be filed in its archives, and a second

copy thereof, in like manner authenticated, in the office of the Division of Carriers' Accounts; and that each of said copies so authenticated and filed shall be deemed an original record thereof.

It is further ordered, That the said Classification with the text pertaining thereto be, and is hereby, prescribed for the use of carriers by rail (exclusive of electric railways) subject to the provisions of the Act to Regulate Commerce as amended, in the keeping and recording of their accounts for train-miles, locomotive-miles, and car-miles; that each and every such carrier and each and every receiver or operating trustee of any such carrier be required to keep all said accounts in conformity therewith; and that a copy of the said issue be sent to each and every such carrier and to each and every receiver or operating trustee of any such carrier.

It is further ordered, That in order to avoid destroying the basis of comparison with previous years, any such carrier or any receiver or operating trustee of any such carrier may, during the twelve months ending June 30, 1915, keep and maintain, in addition to the said accounts hereby prescribed, such portion or portions of its present mileage accounts as may be deemed desirable by any such carrier or by any receiver or operating trustee thereof, for the purpose of such comparison; or, during the same period, may maintain such groupings of the accounts hereby prescribed as may be desired for that purpose.

It is further ordered, That, unless otherwise ordered, any such carrier or any receiver or operating trustee of any such carrier may

367 keep any temporary or experimental mileage accounts the purpose of which shall be to develop the efficiency of operations: *Provided, however*, That such temporary or experimental accounts shall not impair the integrity of any general or primary account hereby prescribed.

It is further ordered, That July 1, 1914, be, and is hereby, fixed as the date on which the said issue of the Classification of Train-miles, Locomotive-miles, and Car-miles shall become effective.

By the Commission.

[SEAL] GEORGE B. MCGINTY, *Secretary*.

368 INTRODUCTORY LETTER

INTERSTATE COMMERCE COMMISSION,
DIVISION OF CARRIERS' ACCOUNTS,
Washington, May 19, 1914.

To Accounting Officers of Steam Railways:

This Classification of Train-miles, Locomotive-miles, and Car-miles supersedes the Classification of Locomotive-miles, Car-miles, and Train-miles, First Issue, effective July 1, 1907.

The rules and definitions in this classification have been considerably amplified for the purpose of securing more uniform accounting, and the importance of requiring all employees who are assigned to

work in connection with accounting for such statistics to familiarize themselves thoroughly with these rules and definitions is called to the attention of accounting officers.

It is provided that the miles of trains which are operated between terminals or stations to transport company freight shall be included as transportation service miles whenever statistics of ton-miles are kept.

In this classification have been included a number of accounting provisions which were contained in accounting cases in Accounting Bulletin No. 8. It will be the purpose in the next authoritative issue of accounting cases to exclude therefrom those cases which are now covered by the rules of this classification.

In the preparation of the revision of the accounting rules contained in this and other classifications for steam roads, which are concurrently issued, the Commission has had the cooperation of a subcommittee of the Standing Committee on Corporate, Fiscal, and General Accounts of the Association of American Railway Accounting Officers.

In all essential features the classification, as here issued, meets with the approval of the special committee of the American Railway Association, by which it has recently been reviewed.

FRED W. SWENEY,
Chief Examiner of Accounts.

369 TEXT PERTAINING TO TRAIN-MILE ACCOUNTS

Rules and Definitions

1. A train is a unit of equipment, or a combination of units of equipment (exclusive of light locomotives), in condition for movement over tracks by self-contained motor equipment. A locomotive is a self-propelled unit of equipment designed solely for moving other equipment. A light locomotive is a locomotive in condition for movement by its own motor equipment, uncoupled to cars, work equipment, or dead locomotives. A motor car is a self-propelled unit of equipment designed to carry freight or passenger traffic, and is not to be considered a locomotive.

2. A train-mile is the movement of a train a distance of 1 mile.

3. In computing train-miles, fractions representing less than one-half mile shall be disregarded and other fractions considered as 1 mile.

4. Transportation service train-miles shall be based on the actual distance run between terminals and stations, and shall be completed from the official time-tables or distance tables.

5. Work service train-miles shall be based on the actual distance run between terminals. When work trains are run between terminals and not ordered to work at some specified point or within specified working limits, the actual miles run shall be allowed to them, the same as to any other class of trains. When ordered to run to a certain point to work at that point or within specified working limits,

the actual miles made while under running orders shall be allowed, and in addition an arbitrary mileage of 6 miles per hour for the time working at the point or within the working limits named. In computing such arbitrary mileage, fractions representing less than one-half hour shall be disregarded and other fractions considered as one hour. Constructive miles on the basis of 6 miles per hour shall be allowed trains run for the purpose of removing snow when the actual miles of such trains are less than the constructive miles. No record is required of work-train miles on new roads, road extensions, or portions of such roads or extensions, before the commencement of the regular operation of revenue service trains.

6. Each train and each section of a train run by a separate train crew shall be considered a separate train, whether hauled by one or more locomotives either the whole distance or a part of the distance between the train terminals. There shall be nothing added to this distance to cover running of locomotives from enginehouses to terminals, doubling hills, running for water, switching, or other work at way stations, or for the service of helper or pusher locomotives or of extra locomotives on double-head or triple-head trains.

7. When the carrier's trains, hauled by its locomotives and handled by its crews, are detoured over foreign roads, the miles shall be computed on the basis of the miles actually run, and classified by it in its train-miles in accordance with the service performed.

8. Separate accounts of train-miles shall be kept for trains hauled by locomotives and for trains moved by motor cars.

370 Transportation Service

This account shall include the miles of all revenue service trains, including trains which incidentally carry employees or company freight. It shall also include the miles of trains which are operated between terminals or stations to transport company freight, when the service is similar to that connected with the transportation of commercial freigh and statistics of ton-miles are kept.

The trains here referred to are those the locomotives and train expenses of operating which are includible in the locomotive and train expense accounts in general account Transportation—Rail line.

801. Freight-train miles. This account shall include miles run by all trains between terminals or stations for the transportation of revenue and company freight, when statistics of ton-miles are kept for the freight thus transported; also miles run by trains consisting of empty freight cars, and by trains consisting of a locomotive and caboose running light in connection with such service.

Trains which regularly contain no passenger service equipment, but upon which passengers are transported in cabooses, or which contain occasionally a car devoted to passenger traffic, shall be classed as freight trains, as shall also trains temporarily using a passenger car in place of a caboose.

Freight-train miles shall be subdivided as follows:

Ordinary freight-train miles.—Miles run by trains consisting of a locomotive, with or without caboose, with other equipment.

Light freight-train miles.—Miles run by trains consisting of a locomotive and caboose, running light in connection with freight-train service.

NOTE.—Miles run by trains regularly for the transportation of freight, which trains also regularly contain one or more cars devoted exclusively to passenger traffic, shall be classed as mixed train miles.

802. Passenger-train miles. This account shall include miles run by revenue service trains to transport passengers, baggage, mail, milk, express, or any combination of these; also miles run by trains consisting of deadhead passenger equipment. When one or more cars other than regular passenger-train cars are hauled incidentally in a passenger train, the miles run by that train shall be considered as passenger-train miles.

NOTE A.—Miles run by trains regularly for the transportation of passenger traffic, which trains also regularly contain one or more cars devoted exlusively to freight traffic, shall be classed as mixed-train miles.

NOTE B.—This account does not apply to trains run for the transportation of mail or mily upon the basis of authorized tariffs at rates based upon weight. The miles of such trains shall be classed as freight-train miles.

803. Mixed-train miles. This account shall include miles run by trains containing both freight-train cars moved in connection with freight traffic, and passenger-train cars moved in connection with passenger traffic.

NOTE A.—The incidental omission of either freight or passenger cars from a regularly scheduled mixed train shall not change its class as a mixed train.

NOTE B.—The miles of freight trains which only incidentally contain a car devoted to passenger-train transportation service shall be classed as freight-train miles, and the miles of passenger trains which only incidentally contain cars moved in connection with freight transportation shall be classed as passenger-train miles.

371 804. Special-train miles. This account shall include miles run by revenue service trains which are paid for either on the basis of a rate per train-mile or a lump sum for the train; such as circus and theatrical trains run under contracts calling for payment of specified amounts for transportation between designated stations, and chartered trains for the Federal or State Government carrying troops, munitions of war, camp outfits, etc. In case freight-train cars or passenger-train cars are used to complete a special train, the mileage made by that train shall still be considered as special-train miles.

Work Service

805. Work-train miles. This account shall include miles run by trains engaged in company service, such as official, inspection, and

pay trains; inspection trains for railway commissioners for which no revenue is received; trains running special with fire apparatus to save the carrier's property from destruction; trains run for transporting the carrier's employees to and from work when no transportation charge is made; wrecking trains; trains run for the purpose of ditching, filling embankments, and widening cuts; trains run for the purpose of removing snow; trains distributing ties, rails, other track material, ballast, bridge material, and other material and supplies for maintenance or for additions and betterments; trains run for picking up and concentrating such material; and trains run for distributing material and supplies for use in connection with operation.

NOTE A.—The miles of trains running between terminals or stations for the transportation of company freight of which a record of ton-miles is kept, shall be included as freight-train miles or mixed-train miles, as may be appropriate. The expenses of operating such trains shall be included in the locomotive and train expense accounts in general account Transportation—Rail line.

NOTE B.—The accounting for expenses of work-train service shall be in accordance with section 4 (c) of the general instructions of the classification of investment in road and equipment; section 3 (c) of the special instructions of the classification of operating expenses; or the texts of the several superintendence and general expense accounts in Operating Expenses, as may be appropriate.

NOTE C.—No record is required of the miles of construction trains on new roads or road extensions, or on portions of such roads or extensions, before the commencement of the regular operation of revenue service trains.

372 TEXT PERTAINING TO LOCOMOTIVE-MILE ACCOUNTS

Rules and Definitions

1. A locomotive is a self-propelled unit of equipment designed solely for moving other equipment. A locomotive-mile is a movement of a locomotive a distance of 1 mile, under its own power.

2. In computing locomotive-miles fractions representing less than one-half mile shall be disregarded, and other fractions considered as 1 mile.

3. All locomotive-miles made in hauling transportation service trains shall be based upon the actual distance run between terminals or stations, and shall be computed from the official time-tables or distance tables as prescribed for train-miles.

4. Light-locomotive miles shall be based on the actual distance locomotives run, except that no light-locomotive miles shall be allowed for terminal service where the distance in one direction is less than one-half mile.

5. Miles of locomotives in helper service shall be computed on the basis of actual distance run in such service.

6. Train switching locomotive-miles shall be computed at the rate of 6 miles per hour for the time actually engaged in such service. In computing such arbitrary mileage fractions representing less than one-half hour shall be disregarded and other fractions considered as one hour.

7. Yard switching locomotive-miles shall be computed at the rate of 6 miles per hour for the time actually engaged in such service. In computing yard switching locomotive-miles fractions representing less than one-half hour shall be disregarded, and other fractions considered as one hour.

8. Work-train locomotive-miles shall be computed according to the rules prescribed for work-train miles. Miles of work locomotives employed in switching at shops for shop purposes, spotting cars in gravel pits, working with pile drivers, etc., shall be computed upon the basis of 6 miles per hour for the actual time in the service. In computing the time engaged fractions representing less than one-half hour shall be disregarded and other fractions considered one hour.

9. The miles of new or generally repaired locomotives running light in breaking-in service shall not be included in the locomotive-mile accounts.

10. No record is required of the miles of locomotives in construction service on new roads or road extensions, or on portions of such roads or extensions, before the commencement of the regular operation of revenue service trains.

11. A separate record shall be kept for miles of steam locomotives and for miles of other locomotives.

12. Miles of motor cars shall not be classed as locomotive miles.

373 Transportation Service—Line

This account shall include the miles run by locomotives moving transportation service trains, and also miles run light in connection with such service.

811. Freight Locomotive-miles. This account shall include miles run by locomotives in freight-train service. Such miles shall be subdivided as follows:

Principal freight locomotive-miles.—Miles run by locomotives principal to the train, between terminals or stations, with freight trains; also miles run by locomotives between terminals or stations, with cabooses, going to or returning from such service; and miles run in hauling the second cut of freight trains doubled over grades.

Helper freight locomotive-miles.—Miles run by locomotives as helpers over the division or that portion covered by the run, or on important grades, including double-headers, triple-headers, and pushers, regardless of whether on the head end, in the middle, or on the rear of the train.

Light freight locomotive-miles.—Miles run by locomotives light between terminals or stations in connection with freight-train service on account of unbalanced traffic; miles run light for hauling second

cuts of trains doubled; miles run light between freight trains and next coaling station or water tank for coal or water; miles run light to pick up or assist freight trains between terminals; miles run light by grade helpers in returning from assisting freight trains as pushers or double-headers; and miles run light by locomotives coming from or going to enginehouses or turntables from freight-train service.

NOTE.—No miles shall be allowed for light movements at terminals if the distance between enginehouses or turntables and freight-train terminals is less than one-half mile.

812. Passenger locomotive-miles. This account shall include miles run by locomotives in passenger-train service. Such miles shall be subdivided as follows:

Principal passenger locomotive-miles.—Miles run by locomotives principal to the train between terminals or stations, with passenger trains.

Helper passenger locomotive-miles.—Miles run by locomotives as helpers over the division, or that portion covered by the run, or on important grades.

Light passenger locomotive-miles.—Miles run by locomotives light between terminals or stations on account of unbalanced traffic, in connection with passenger-train service; miles run light between passenger trains and next coaling station or water tank for coal or water; miles run light to pick up or assist a passenger train between terminals; miles run light by grade helpers in returning from assisting passenger trains as pushers or double-headers; and miles run light by locomotives coming from or going to enginehouses or turntables from passenger-train service.

NOTE.—No miles shall be allowed for light movements at terminals if the distance between engine houses or turntables and passenger-train terminals is less than one-half mile.

813. Mixed-train locomotive-miles. This account shall include miles run by locomotives in mixed-train service. Such miles shall be subdivided as follows:

Principal mixed locomotive-miles.—Miles run by locomotives principal to the train between terminals or stations, with mixed trains.

Helper mixed locomotive-miles.—Miles run by locomotives as helpers over the division, or that portion covered by the run, or on important grades.

Light mixed locomotive-miles.—Miles run by locomotives light between terminals or stations on account of unbalanced traffic, in connection with mixed-train service; miles run light between
374 mixed trains and next coaling station or water tank for coal or water; miles run light to pick up or assist a mixed train between terminals; miles run light by grade helpers in returning from assisting mixed trains as pushers or double-headers; and miles run light by locomotives coming from or going to enginehouses or turntables from mixed-train service.

NOTE.—No miles shall be allowed for light movements at terminals if the distance between enginehouses or turntables and mixed-train terminals is less than one-half mile.

814. Special locomotive-miles. This account shall include the actual miles run by locomotives in special-train service. This account shall be subdivided as follows:

Principal special locomotive-miles.—Miles run by locomotives principal to the train between terminals or stations, with special trains.

Helper special locomotive-miles.—Miles run by locomotives as helpers over the division, or that portion covered by the run, or on important grades.

Light special locomotive-miles.—Miles run by locomotives light between terminals or stations on account of unbalanced traffic, in connection with special-train service; miles run light between special trains and next coaling station or water tank for coal or water; miles run light to pick up or assist a special train between terminals; miles run light by grade helpers in returning from assisting special trains as pushers or double-headers; and miles run light by locomotives coming from or going to enginehouses or turntables from special-train service.

NOTE.—No miles shall be allowed for light movements at terminals if the distance between enginehouses or turntables and special-train terminals is less than one-half mile.

Transportation Service—Switching

815. Train switching locomotive-miles. This account shall include miles allowed train locomotives for performing switching service at terminals and way stations.

816. Yard switching locomotive-miles. This account shall include miles allowed yard locomotives while switching in yards where regular switching service is maintained; also miles of switching locomotives running light between terminals and yards where regular switching service is maintained in connection with switching service in such yards. This account shall be subdivided as follows:

Yard switching locomotive-miles—Freight.—Miles allowed yard locomotives in yards where regular switching service is maintained and in terminal switching and transfer service while engaged in switching cars in connection with the transportation of revenue freight; also miles allowed locomotives in such service while engaged incidentally in switching cars in connection with the transportation of company freight.

Yard switching locomotive-miles—Passenger.—Miles allowed yard locomotives while switching cars in connection with passenger-train service.

NOTE.—Where yard switching is performed for both freight and passenger service by the same locomotive, or by locomotives assigned to one yard, a fair approximation of the mileage may be assigned to each service daily or monthly.

Work Service

817. Work service locomotive-miles. This account shall include the actual miles run by locomotives in work-train service as defined in the classification of work-train miles; also miles of locomotives engaged solely in shop or material yard switching service.

NOTE A.—Miles run by locomotives while engaged incidentally (in connection with regular yard switching service) in switching company materal in company shop or material yards, or in switching equipment for repairs between yards and shops, shall be included in account "Yard switching locomotive-miles."

NOTE B.—Miles run by locomotives engaged in shop and material yard switching service, if operated by shop employees, shall not be included in this account.

375 TEXT PERTAINING TO CAR-MILE ACCOUNTS

Rules and Definitions

1. A car-mile is a movement of a unit of car equipment a distance of 1 mile.

2. In computing car-miles, fractions representing less than one-half mile shall be disregarded, and other fractions considered as 1 mile.

3. Separate accounts of car-miles shall be kept for the cars in trains hauled by locomotives and for the cars in trains moved by motor cars. The record of car-miles in trains moved by motor cars shall show separately the miles for motor cars and for cars not thus equipped.

Transportation Service

821. Freight-train Car-miles. This account shall include the actual miles run by freight and caboose cars in freight trains, or incidentally in passenger trains. Such car-miles shall be subdivided as follows:

Loaded (run by loaded freight cars).

Empty (run by empty freight cars).

Caboose (run by caboose cars).

822. Passenger-train Car-miles. This account shall include the actual miles run by passenger-train cars in passenger trains and miles run by such cars incidentally in freight trains. This account shall include the miles of loaded cars and also of empty cars deadheaded in connection with the service, and shall be subdivided as follows:

Passenger cars.—Miles run by all passenger cars, including combination passenger and baggage, passenger and mail, and passenger and express, chair cars, club cars, and other cars in which passengers are carried at regular tariff fares without extra charge for space occupied.

Sleeping, parlor, and observation cars.—Miles run by sleeping, parlor, observation, and other cars for which an extra fare is charged, directly or indirectly, for space occupied.

Dining cars.—Miles run by all dining, café, and other cars devoted exclusively to the serving of meals or other refreshments.

Other passenger-train cars.—Miles run by all baggage, combination baggage and express, and combinations of baggage, mail, postal, and

express cars, and by all mail, postal, milk, express, and business cars. (This class includes no cars intended for the transportation of passengers.)

376 823. Mixed-train Car-miles. This account shall include the actual miles run by cars in mixed trains, as defined in the classification of train-miles. This account shall be subdivided as follows:

Freight cars—Loaded.
Freight cars—Empty.
Caboose cars.
Passenger cars.
Sleeping, parlor, and observation cars.
Dining cars.
Other passenger-train cars.

824. Special-train Car-miles. This account shall include miles run by cars in special trains, as defined in the classification of train-miles. This account shall be subdivided as follows:

Freight cars—Loaded.
Freight cars—Empty.
Caboose cars.
Passenger cars.
Sleeping, parlor, and observation cars.
Dining cars.
Other passenger-train cars.

Work Service

825. Work Service Car-miles. This account shall include miles run by cars in work trains, except by equipment which is designed exclusively for work service, such as snow plows, flangers, derricks, pile drivers, wrecking cranes, tool cars, and camp outfits: (For definition of work train, see account No. 805.)

377–388 [Report of Commission on further hearing, Docket No. 9200, omitted. Printed side page 81 ante.]

389 In United States District Court

[Title omitted.]

In Equity, No. 228

Petition for appeal

The United States of America and the Interstate Commerce Commission, defendants in the above-entitled cause, feeling themselves aggrieved by the final decree of the District Court of the United States for the Southern District of Georgia, Augusta Division, entered in said Court on February 22, 1937, pray an appeal from said decree to the Supreme Court of the United States.

The particulars wherein they consider the decree erroneous are set forth in the assignment of errors, accompanying this petition and to which reference is hereby made.

Said defendants pray that a transcript of record, proceedings and papers on which said decree was made and entered, duly authenticated, be transmitted forthwith to the Supreme Court of the United States.

Dated APRIL 16, 1937.

390 J. SAXTON DANIEL,
United States Attorney,
ROBERT H. JACKSON,
Assistant Attorney General,
ELMER B. COLLINS,
Special Assistant to the Attorney General,
For the United States of America.
DANIEL W. KNOWLTON,
EDWARD M. REIDY,
For the Interstate Commerce Commission.

391 In United States District Court

[Title omitted.]

In Equity, No. 228

Notice of Appeal

Filed April 16, 1937

To W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD, PETITIONERS:

Please take notice that, pursuant to the statutes and rules of court in such case made and provided, the United States of America and the Interstate Commerce Commission, defendants in the above-entitled cause, and each of them, do hereby appeal to the Supreme Court of the United States from the final order and decree of the United States District Court for the Southern District of Georgia, Augusta Division, made and entered on the 22d day of February 1937, which set aside, annulled, suspended and permanently enjoined a certain order of the Interstate Commerce Commission in the proceeding entitled "No. 9200, Railway Mail Pay—In the Matter of the Application of the Georgia & Florida Railroad Company for Increased Rates of Pay", filed February 4, 1936, wherein the Commission found the rates of mail pay paid to said Company under a prior order of the Commission to be fair and reasonable.

392 J. SAXTON DANIEL,
United States Attorney.
ROBERT H. JACKSON,
Assistant Attorney General.
ELMER B. COLLINS,
Special Assistant to the Attorney General.
For the United States of America.
DANIEL W. KNOWLTON,
EDWARD M. REIDY,
For the Interstate Commerce Commission.

Service of the foregoing Notice of Appeal and the receipt of a copy thereof are hereby acknowledged this 16th day of April 1937.

MOULTRIE HEIT,
S. KIBBEY MUNSON,
HULL, BARRETT, WELLINGTON & TOWELL,
Attorneys for Petitioners.

[File endorsement omitted.]

393 In the United States District Court

[Title omitted.]

In Equity, No. 228

Assignment of Errors

Filed April 16, 1937

Now come the United States of America and the Interstate Commerce Commission, defendants in the above-entitled cause, by their respective counsel and in connection with their appeal, file the following assignment of errors upon which they will rely in the prosecution of their appeal to the Supreme Court of the United States from the final decree of this Court entered February 22, 1937.

The District Court erred:

(1) In holding and deciding that the order of the Interstate Commerce Commission of February 4, 1936 (214 I. C. C. 66) is and has at all times been unlawful, and in decreeing that said order be set aside and annulled.

(2) In order and decreeing that the Interstate Commerce Commission shall take further action in the premises in view of the annulment and setting aside of said order of February 4, 1936.

(3) In holding and deciding, after making the statement that "neither applicant nor this Court entertains the view that the hypothetical cost is 'necessarily conclusive'", that the cost study proved rates established by the Commission and the return produced by them are not fair and reasonable.

394 (4) In attributing to the hypothetical cost study, or estimate of cost of the service, the force and effect of positive proof of actual cost incurred by petitioners in transporting the mail.

(5) In failing to hold that, because it contained so many assumptions and estimates, said hypothetical cost study lacked sufficient certainty and probative force to establish the costs incurred by petitioners in transporting the mail.

(6) In failing to hold that the evidence as a whole, introduced by petitioners, lacked sufficient certainty and definiteness to prove that the rates established by the Commission and the returns produced by them were not fair and reasonable.

(7) In holding and deciding that petitioners are required to transport the mail at a compensation fixed by the Commission which does not produce a fair and reasonable return.

(8) In holding that: "The law as established in this case by the previous decision, unreversed, makes inapplicable comparisons with compensation received from other services in passenger train cars'; 'comparisons with freight rates'; and 'comparisons per car-mile and per car-foot mile of the computed cost of mail service and the revenue from authorized mail service with the computed cost of corresponding units in passenger-train service as a whole' ".

(9) In holding that its opinion of January 18, 1935, established the law in this case.

(10) In not dismissing the bill of complaint and the supplemental bill of complaint at petitioners' cost.

Dated April 1937.

J. SAXTON DANIEL,
United States Attorney.
ROBERT H. JACKSON,
Assistant Attorney General.
ELMER B. COLLINS,
Special Assistant to the Attorney General.
For the United States of America.

395 DANIEL W. KNOWLTON,
EDWARD M. REIDY,
For the Interstate Commerce Commission.

[File endorsement omitted.]

396 In United States District Court for the Southern District of Georgia, Augusta Division

In Equity, No. 228

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD, PETITIONERS

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, DEFENDANTS

Order Allowing Appeal

Filed April 16, 1937

In the above-entitled cause, the United States of America and the Interstate Commerce Commission, defendants, having made and filed their petition praying an appeal to the Supreme Court of the United States from the final decree of this Court in this cause entered February 22, 1937, and having also made and filed an assignment of

errors, and a statement of jurisdiction, and having in all respects conformed to the statutes and rules of Court in such case made and provided, it is

Ordered and decreed that the appeal be, and the same is hereby, allowed as prayed for.

WM. H. BARRETT,
United States District Judge.

Dated April 16th, 1937.
[File endorsement omitted.]

397 In United States District Court

[Title omitted.]

In Equity, No. 228

Notice to Attorney General of the State of Georgia

Filed April 16, 1937

TO THE HONORABLE M. J. YEOMANS, ATTORNEY GENERAL OF THE STATE OF GEORGIA:

Pursuant to Urgent Deficiencies Act of October 22, 1913, 38 Stat. 221, you are hereby notified that the United States of America and the Interstate Commerce Commission, defendants in the above-entitled cause, have taken an appeal to the Supreme Court of the United States from the final decree of the United States District Court for the Southern District of Georgia, Augusta Division, entered February 22, 1937, and the order allowing the appeal makes the same returnable within forty days from the date thereof.

J. SAXTON DANIEL,
United States Attorney,
ROBERT H. JACKSON,
Assistant Attorney General,
398 ELMER B. COLLINS,
Special Assistant to the Attorney General,
For the United States of America.
DANIEL W. KNOWLTON,
EDWARD M. REIDY,
For the Interstate Commerce Commission.

Service of a copy of the foregoing notice is hereby acknowledged this 1st day of April 1937.

M. J. YEOMANS,
Attorney General, State of Georgia.

[File endorsement omitted.]

399 [Citation in usual form showing service on Moultree Hitt et al. filed April 16, 1937, omitted in printing.]

416 In United States District Court

[Title omitted.]

No. E–228

Praecipe for transcript of record

Filed April 16, 1937

To the Clerk:

Please prepare a transcript of the record in the above-entitled cause for the purposes of the appeal herein filed and allowed, including therein the following papers and proceedings to wit:

1. Petition in Equity No. 207 and Exhibits A, B, and C, thereto attached.
2. Orders of Court dated March 2, 1934, March 31, 1934, May 28, 1934, July 28, 1934, and November 24, 1934, respectively, attached to petition, relating to continuances.
3. Answer of United States in No. 207.
4. Answer of Interstate Commerce Commission in No. 207.
5. Petition filed with Interstate Commerce Commission by Georgia & Florida Railroad dated April 1, 1931, asking re-examination of rates of mail pay received by it.
6. Answer of Postmaster General filed April 9, 1931, to petition just referred to.

417 7. Order of Interstate Commerce Commission dated May 14, 1931, reopening the proceeding.

8. Petition for Reconsideration filed by Georgia & Florida Railroad, dated July 6, 1933.
9. Reply of the Postmaster General of the United States, dated July 24, 1933, to the Petition of the Carriers for Reconsideration.
10. Acceptance of Service.
11. Opinion and Final Decree of District Court in No. 207, filed January 18, 1935.
12. Petition of Postmaster General for Further Hearing, dated March 12, 1935.
13. Order of Interstate Commerce Commission dated March 12, 1935, Reopening the Proceeding.
14. Acceptance of Service in No. 228.
15. Motion to File Supplemental Bill.
16. Order of Judge Barrett on Supplemental Bill.
17. Supplemental Bill (No. 228) including Exhibits D and E.
18. Answer of United States to Supplemental Bill.
19. Answer of Interstate Commerce Commission to Supplemental Bill.
20. Order of Court dated June 20, 1936.
21. Opinion and Final Decree of Court, dated February 22, 1937.

22. Stpulation of April 16, 1937, including Narrative of Testimony and Copies of the Exhibits that were submitted to the Commission and Introduced in the District Court, and Order of the Court approving the Stipulation.

23. Petition for Appeal.

418 24. Notice of Appeal and Acknowledgment of Service.

25. Assignment of Errors.

26. Order Allowing Appeal.

27. Notice to Attorney General of the State of Georgia.

28. Citation on Appeal.

29. Statement of Jurisdiction of Supreme Court, together with Notice and Acknowledgment of Service.

30. Rule 12 (2) (Rules of Supreme Court) Statement.

31. Praecipe for Record.

32. All Docket Entries in their Proper Order.

33. Clerk's Certificate.

J. SAXTON DANIEL,
United States Attorney,
ROBERT H. JACKSON,
Assistant Attorney General,
ELMER B. COLLINS,
Special Assistant to the Attorney General,
For the United States of America.
DANIEL W. KNOWLTON,
EDWARD M. REIDY,
For the Interstate Commerce Commission.

Service of the foregoing Praecipe for Transcript of Record and the receipt of a copy thereof are hereby acknowledged this day of April 1937.

MOULTRIE HILT,
G. KIBBY MUNSON,
HULL, BARRETT, WILLINGHAM & TOWER,
J. J. WILLINGHAM,
Attorneys for Petitioners-appellees.

[File endorsement omitted.]

419 In United States District Court

Docket No. 207

W. V. GRIFFIN & H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA

vs.

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION

Bill in Equity for Reconsideration of Rates for Transportation of Mails

Docket entries

Mar. 2, 1934—Original Bill in Equity & order thereon (E. J., pages 394–5).

Mar. 31, 1934—Order of Judge Barrett extending time for submitting motion referred to in original order for an additional 60 days (E. J., page 395).

May 28, 1934—Order of Judge Barrett extending time for submitting motion referred to in original order for an additional 60 days.

July 30, 1934—Order of Judge Bascom S. Deaver extending time for motion referred to in original order to November 15, 1934, dated July 28, 1934 (E. J., page 403).

Nov. 24, 1934—Order of Judge Barrett, dated Nov. 14, 1934, extending time for submitting motion referred to in original order to Nov. 21, 1934.

Nov. 24, 1934—Order of Judge Barrett, dated Nov. 24, 1934, directing subpoenas to be issued and served with copy of the original bill of complaint and the several orders extending time on Secretary of Interstate Commerce Commission and on the Department of Justice, and calls Samuel H. Sibley and E. Marvin Underwood to his assistance to hear said application for relief sought.

Nov. 24, 1934—Equity Subpoena issued and two copies delivered to J. J. Willingham, Attorney, for service.

Dec. 4, 1934—Acceptance of service by Secretary Interstate Commerce Commission.

Dec. 4, 1934—Acceptance of service by Elmer B. Collins, Special Assistant to Attorney General of United States.

Nov. 24, 1934—Order of Judge Barrett extending time for submitting motion until Dec. 15, 1934.

Dec. 7, 1934—Answer of Interstate Commerce Commission.

Dec. 29, 1934—Answer of The United States.

Jan. 23, 1935—Opinion and final decree finding in favor of Plaintiffs and setting aside order of I. C. C. dated May 10, 1933, dated Jan. 18, 1935, signed by Samuel H. Sibley, U. S. Circuit Judge, Wm. H. Barrett and Marvin E. Underwood, U. S. District Judges.

Docket No. 228

SAME HEADING

Supplemental Bill to Equity 207, Bill for Reconsideration of Rates for Transportation of Mails

Docket entries

June 20, 1936—Motion to file supplemental bill to Equity 207.
June 20, 1936—Supplemental Bill and Order thereon allowing filing, directing service on Attorney General of U. S. and Interstate Commerce Commission as required by the Statutes.

420 J. S. 5.

June 20, 1936—Request of Attorneys for Plaintiffs to continue this proceeding under Equity 207. Under present system of reporting open and pending cases this case has been given a new number.
July 10, 1936—Acknowledgment of service of supplemental bill by George B. McGinty, Sec. Interstate Commerce Commission.
July 10, 1936—Acknowledgment of service of supplemental bill by Elmer B. Collins, Special Assistant to Attorney General.
July 10, 1936—Answer of The United States to Supplemental Bill.
July 16, 1936—Answer of Interstate Commerce Commission to Supplemental Bill.
Dec. 10, 1936—Order of Judge Wm. H. Barrett, organizing a Three-Judge Court, as provided by Act of June 18, 1910 (36 Stat. L. 539), and calling Judge Samuel H. Sibley of Circuit Court of Appeals, and Judge E. Marvin Underwood, of District Court, to assist in hearing set for Dec. 10, 1936, at 10 A. M., in Augusta, Ga.
Dec. 10, 1936—Certified copy of above order mailed to Judge Sibley and Judge Underwood.
Dec. 30, 1936—Hearing before Three-Judge Court, Sibley, Barrett & Underwood.
Jan. 15, 1937—Reply brief of Defendants.
Jan. 21, 1937—Reply to Defendants brief.
Feb, 23, 1937—Opinion and final decree setting aside annulling order of I. C. C., dated Feb. 4, 1936, and directing further action by said Commission, signed by Judges Sibley, Barrett and Underwood and dated Feb. 22, 1937.
Mar. 1, 1937—J. S. 6.
Apr. 16, 1937—Stipulation re Transcript of Record filed April 16, 1937.

Apr. 16, 1937—Narrative statement of Testimony (with order approving stipulation and narrative).
Apr. 16, 1937—Petition for appeal.
Apr. 16, 1937—Notice of Appeal with acknowledgments of service.
Apr. 16, 1937—Assignment of Errors.
Apr. 16, 1937—Order allowing appeal.
Apr. 16, 1937—Notice to Attorney General of the State of Georgia, with acknowledgment of service, dated April 1, 1937.
Apr. 16, 1937—Citation on Appeal, with acknowledgments of service.
Apr. 16, 1937—Statement as to Jurisdiction on Appeal.
Apr. 16, 1937—Rule 12 (3) Statement with acknowledgment of service.
Apr. 16, 1937—Praecipe for Transcript of Record with acknowledgment of service.

421 In the Supreme Court of the United States

Statement of points to be relied upon and designation of the record to be printed

Filed May 15, 1937

Come now the appellants and say that they will rely on the points made in their assignment of errors in brief and oral argument before this Court on their appeal in the above-entitled cause.

Appellants further state that the entire record in this cause as filed in this Court is necessary for consideration of the points set forth above, with the exception of the documents referred to in paragraph 4 (a) and (b) of "Stipulation re Transcript of Record—Filed April 16, 1937", which documents need not be printed.

STANLEY REED,
Solicitor General,
ROBERT H. JACKSON,
Assistant Attorney General,
ELMER B. COLLINS,
Special Assistant to the Attorney General,
For the United States of America.
DANIEL W. KNOWLTON,
EDWARD M. REIDY,
For the Interstate Commerce Commission.

Copies of above served this 15th day of May, 1937.

MOULTRIE HITT,
Counsel for Appellees.

[File endorsement omitted.]

File No. 41,534. S. Georgia, D. C. U. S. Term No. 63. The United States of America and Interstate Commerce Commission, Appellants, vs. W. V. Griffin and H. W. Purvis, Receivers for Georgia & Florida Railroad. Filed May 15, 1937. Term No. 63–O. T.–1937.

U. S. GOVERNMENT PRINTING OFFICE: 1937

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PAGE

In the Supreme Court of the United States

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, APPELLANTS

v.

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD

STATEMENT AS TO JURISDICTION ON APPEAL

In compliance with Rule 12 of the Rules of the Supreme Court, appellants submit herewith their statement showing the basis of the jurisdiction of the Supreme Court of the above-entitled case on appeal.

STATUTES

Section 5 of the Commerce Court Act (c. 309, 36 Stat. 539; U. S. Code, Suppl. III, Tit. 28, Sec. 45a).

Section 238 of the Judicial Code as amended by the Act of February 13, 1925 (c. 229, 43 Stat. 936, 938, par. (4); U. S. Code, Tit. 28, Sec. 345).

Urgent Deficiencies Act of October 22, 1913 (c. 32, 38 Stat. 210, 219, U. S. Code, Tit. 28, Sec. 45 and 47a, Suppl. III).

DECREE

The decree sought to be reviewed was entered February 22, 1937.

The petition for appeal was filed and the order allowing the appeal was entered April 16, 1937.

THE NATURE OF THE CASE AND RULINGS BELOW

This suit was brought under Urgent Deficiencies Act (38 Stat. 219; U. S. Code, Title 28, Secs. 45 and 47a) by the receivers of the Georgia & Florida Railroad, petitioners below, to enjoin, set aside, and annul an order of the Interstate Commerce Commission issued February 4, 1936, in a proceeding on further hearing before the Commission entitled Docket 9200, *Railway Mail Pay—In the Matter of the Application of the Georgia & Florida Railroad for Increased Rates of Pay,* 214 I. C. C. 66. The order established "fair and reasonable rates" to be received by the petitioners for services rendered on and after April 1, 1931, for the transportation of United States mail. Effective August 1, 1928, the Commission, in *Railway Mail Pay,* 144 I. C. C. 675, established rates for transportation of mail by railroads over 100 miles in length, including the Georgia & Florida Railroad. On April 1, 1931, the receivers of that railroad filed an application with the Commission for an increase in the rates alleging that they were not fair and reasonable as to that railroad. After hearing, the Commission issued a report and order on May 10, 1933, finding that the rates established August 1, 1928, were fair and reasonable and establishing them as the rates to be received by petitioners on and after April 1, 1931. Petitioners brought suit to enjoin and annul the order of May 10, 1933, and on January 18, 1935, the court rendered its opinion holding in substance that the established rates were less

than the cost of the service, and entered its decree enjoining and annulling the order and directing that the Commission take further action. Further hearing was held by the Commission, and on February 4, 1936, it issued a further report and order again finding that the existing rates were fair and reasonable and establishing them to be received by petitioners on and after April 1, 1931. By supplemental bill of complaint petitioners sued to enjoin the order of February 4, 1936, and on February 22, 1937, the court rendered its opinion holding again that the rates established by the Commission were less than fair and reasonable rates to petitioners and entered its decree setting aside and annulling the order and again directing further action by the Commission. The court ruled, in substance, that the rates established by the Commission were insufficient to produce a proper return; that in determining the fair and reasonable rates the Commission was without authority to make comparisons of the returns produced by the established mail pay rates with returns received by petitioners from other services in passenger train cars or with returns produced by freight rates or any other such comparisons. The court's conclusion that the rates are inadequate seems to rest entirely upon a so-called "cost study" or estimate of the cost of the service, although the court itself stated that the study was "hypothetical" and not necessarily conclusive.

The questions presented are substantial. This is the first suit brought under Urgent Deficiencies

Act to enjoin and annul an order of the Commission establishing rates and compensation for transportation of mail. There are numerous railroads situated similar to the petitioners in this case and a decision by this Court will be of particular importance in the future, and will also be helpful to the Commission in the future establishment of railway mail pay rates in that it will serve to guide the Commission with respect to matters of evidence which should or should not be considered in such proceedings. Appended hereto are copies of the three-judge court's opinions of January 18, 1935, and February 22, 1937.

CASES SUSTAINING JURISDICTION

United States v. *Erie Railroad Co.*, 280 U. S. 98.

United States v. *Baltimore & Ohio R. R. Co.*, 284 U. S. 195.

I. C. C. v. *Oregon-Washington R. Co.*, 288 U. S. 14.

United States v. *Northern Pacific Ry.*, 288 U. S. 490.

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In the District Court of the United States for the Augusta Division of the Southern District of Georgia

---

In Equity. No. 207

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD, PETITIONERS

v.

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION

This is a suit by W. V. Griffin and H. W. Purvis, Receivers of the Georgia & Florida Railroad, against the United States of America and the Interstate Commerce Commission to enjoin, set aside, amend, and suspend an order of such Commission of May 10, 1933, denying an application for increased compensation for the transportation of mail. The suit is brought under U. S. C. A., Title 28, Sections 41 (27 and 28) and 43–48.

No other facts were established or sought to be established than those set forth in such order of said Commission, a copy of which is annexed to petitioners' complaint, and it is therefore considered unnecessary and redundant to restate "Findings of Fact" as provided by Equity Rule 70½. The challenge is to the conclusion drawn from undisputed facts.

The facts developed in the "cost study" fully set forth in such order of the Commission were ascertained by the application of rules prescribed by the Commission. All parties to this controversy agree that a "cost study" is not and cannot be mathematically correct but is an approximation. Such "cost study" discloses among other facts that "There was (1) a deficit in net railway operating income from mail of $4,945.00 based upon 1931 operations." It further disclosed that as regards revenue: "The distribution of expense upon the space ratios shows that the ratio for mail service was 102.79" or that for every dollar applicants received for transporting mails they expended one dollar and 2.79 cents.

The fact that this railroad lost more money on other services rendered by it or that other railroads transported mail under similar, if not identical conditions, at a profit or that this railroad belonged in a certain classification established by such Commission, known as Class 1 railroads and that therefore it should be in accord with other railroads of such Class as to compensation as to mail, do not refute or impair the fact that the compensation allowed this railroad for the transportation of mail does not equal the cost of so doing.

While it is true that "For the purpose of determining and fixing rates or compensation hereunder the Commission is authorized to make such classi-

fication of carriers as may be just and reasonable and * * * fix general rates applicable to all carriers in the same classification", it can fix such rates only "Where just and equitable." 39 U. S. C. A., Section 549.

The transportation of mail by railroads is compulsory but they are "entitled to receive fair and reasonable compensation for such transportation and for the service connected therewith." 39 U. S. C. A., Section 541.

There is no attack upon the efficiency of the operation of this railroad. There is no charge of extravagance. The bald fact remains that this railroad is required in order to escape severe punishment (39 U. S. C. A., Section 563) to transport mail at a compensation fixed by such Commission and that such compensation does not pay the actual cost of service. This compensation is not in compliance with the duty on the United States to pay "fair and reasonable compensation" and is not "just and equitable."

IT IS THEREFORE ORDERED AND DECREED:

(1) That said order of the Interstate Commerce Commission of May 10, 1933, is and has at all times been unlawful and that said order be set aside and annulled.

(2) Said Commission shall take such further action in the premises as the law requires in view of the annulment and setting aside of the said order of May 10, 1933.

Inasmuch as this court has not the authority to fix the compensation we do not deal with the question of what percent of return on the investment, if any, would be required to make the compensation fair and reasonable.

This 18th day of January 1935.

SAMUEL H. SIBLEY,
United States Circuit Judge.
WM. H. BARRETT,
United States District Judge.
MERVIN UNDERWOOD,
United States District Judge.

In the District Court of the United States for the Southern District of Georgia, Augusta Division

In Equity. No. 228

H. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD

v.

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION

Effective August 1, 1928, the Interstate Commerce Commission (hereinafter called Commission), in *Railway Mail Pay,* 144 I. C. C. 675, established rates for transportation of mail by railroads over 100 miles in length and these rates were applied to the Georgia & Florida Railroad. Thereafter, the receivers of such railroad made application to the Commission for an alteration of such rates so that they would be fair and reasonable for such railroad. After a test period, investigation, and hearing from counsel for applicant and for the Postmaster General the Commission on May 10, 1933, declined to change the rates.

The receivers of such railroad then brought their petition before a Three-Judge Court against the United States of America and against said Com-

mission, praying that said order of May 10, 1933, be declared unlawful and wholly void and that such Commission reopen and reconsider the proceedings and "determine the fair and reasonable rates to be received by petitioners for transportation of the mails, on and after said April 1, 1931."

"No other facts were established or sought to be established than those set forth in said order of said Commission, a copy of which is annexed to petitioners' complaint." "The challenge is to the conclusion drawn from the undisputed facts." (Previous decision of this court.) The court therefore deemed it unnecessary to state "Findings of Fact", but its judgment did declare certain facts as follows:

> (1) The facts developed in the "cost study" fully set forth in such order of the Commission were ascertained by the application of rules prescribed by the Commission.
>
> (2) All parties to this controversy agree that a "cost study" is not and cannot be mathematically correct but is an approximation.
>
> (3) "The distribution of expense upon the space ratios shows that the ratio for mail service was 102.79" or that for every dollar applicants received for transporting mails they expended one dollar and 2.79 cents.
>
> (4) The fact that this railroad lost more money on other services rendered by it or that other railroads transported mail under

similar, if not identical conditions, at a profit or that this railroad belonged in a certain classification established by such Commission, known as Class I railroads and that therefore it should be in accord with other railroads of such class as to compensation as to mail, do not refute or impair the fact that the compensation allowed this railroad for the transportation of mail does not equal the cost of so doing. The Commission can fix such rates only "Where just and equitable."

(5) The transportation of mail by railroads is compulsory but they are "entitled to receive fair and reasonable compensation for such transportation and for the service connected therewith."

(6) There is no attack upon the efficiency of the operation of this railroad. There is no charge of extravagance.

The said order was annulled and the Commission was directed to take such further action as the law requires. There was no appeal from this decision.

Thereafter the Commission of its own motion reopened such proceeding, which resulted in a report on February 4, 1936, again establishing the same rates which this court had declared unlawful.

It becomes important to ascertain what, if any, additional testimony or what, if any, different rules of law warranted such conclusion.

For the reason that neither report states definitely "Findings of Fact" as such it is not easy to ascertain what different facts existed at the dif-

ferent hearings. We will do our best to ascertain the differences in facts and in rules of law following the course of discussion in the last report.

The report, after quoting from brief of applicant, states:

> There is implicit in the statement quoted, and in the corresponding portion of the opinion referred to, the assumption that if the department discontinues mail service on applicant's trains the applicant will thereby be saved the expenditure of $1.0279 for every dollar of revenue it thus loses.

We do not concur in this statement. The opinion definitely states that these figures were derived by "the distribution of expense upon the space ratios" and by the employment of methods approved or directed by the Commission. However we deem this difference in interpretation immaterial.

The argument of the Commission to destroy the effect of its methods previously used is thus stated:

> * * * Relative costs derived from a series of studies of expenditures for operations common to a number of services cannot be converted into absolute costs by using a single-figure relation derived from such studies.
>
> The cost computed in the manner described is a hypothetical cost and not an actual cost, and is not necessarily conclusive as applicant contends. In other mail-pay proceedings, in which space authorized and paid

for was found to be the space that should be charged to mail in cost studies similar to that here, consideration was given to other factors as well, such as the amount and character of the unused space reported as operated (Railway Mail Pay, 85 I. C. C., 157, 170, 123 I. C. C. 33, 39); the actual space occupied by mail, as distinguished from authorized space, determined by the mail load carried, based upon a count of bags and of packages outside of bags, and, in some instances, by the weight (Railway Mail Pay, 95 I. C. C. 493, 500, 511, 120 I. C. C. 439, 446); comparisons with compensation received from other services in passenger-train cars (Railway Mail Pay, 144 I. C. C. 675, 706); comparisons with freight rates (Railway Mail Pay, 144 I. C. C. 675, 705, 151 I. C. C. 734, 742); comparisons per car-mile and per car-foot mile of the computed cost of mail service and the revenue from authorized mail service with the computed cost of corresponding units in passenger-train service as a whole (Railway Mail Pay, 144 I. C. C. 675, 699); and the character of the service performed in connection with transporting the mail (Railway Mail Pay, 56 I. C. C. 1, 8, Electric Railway Mail Pay, 58 I. C. C. 455, 464, 98 I. C. C. 737, 755).

Neither applicant nor this Court entertains the view that the hypothetical cost is "necessarily conclusive." It is merely the fairest method that has been devised. If "actual cost" as to each item be required applicants would be helpless and the Com-

mission would be reduced to guessing. What elements may have been persuasive "In other mail proceedings" are not necessarily to be considered here, and should not be in the absence of supporting testimony and some indication as to what weight was given each element. Further, there is no testimony here as to "unused space reported as operated." There is included payment for unused space not operated, of which more later. There is nothing to justify disregard of the fact used in the first report that "space authorized for mail is regarded as space used."

The law as established in this case by the previous decision, unreversed, makes inapplicable "comparisons with compensation received from other services in passenger train cars"; "comparisons with freight rates"; and "comparisons per car-mile and per car-foot mile of the computed cost of mail service and the revenue from authorized mail service with the computed cost of corresponding units in passenger-train service as a whole."

There is no criticism of "the character of the service performed in connection with transporting the mail."

Further argument of the Commission, as we understand it, is that because 30 feet instead of 15 feet is partitioned off for mail this adds 15 feet to the unused space for which the post office department pays a part. We do not so understand the testimony. Our understanding is that the unused space is the same wherever the partition be placed.

There is, however, this further finding of fact implied, though not definitely stated, viz: that an unnecessarily large car is used and this adds to the portion paid by the mail for unused space and that if 15 feet were eliminated from the car the mail space ratio would be reduced to 10.79 per cent, resulting in a profit to applicant from mail of $1,711.

Lengthily are theories and possibilities advanced to establish that a different result might be reached if different methods were employed "to ascertain and compute the proportions of operating expense and the separations into expenses for freight service and passenger service respectively", but there is no justification submitted for abandoning the method employed in making the first report, which was unchallenged as to accuracy and was admitted to have been apportioned "in accordance with the formulas prescribed for Class 1 roads for the separation of expenses between freight and passenger services."

The second report not only does not contradict this but reaffirms it in this language: "The methods are the same as those prescribed in our rules governing separation of such expenses on large steam railroads."

We find nothing that warrants any change in our conclusions as to the legality of the order now before us from our previous conclusion as to the same

rates except the fact, stated by implication, that the use of a mixed car shorter by 15 feet would result in a profit from mail revenue of $1,711 annually. The report discloses "The total mail service investment thus derived was $457.082." This return is approximately 0.0037 per cent. This is not "fair and reasonable."

Inasmuch as all the facts constituting the basis for the order of the Commission are fully set out in the report it is deemed unnecessary to restate them in this opinion as findings of fact.

IT IS THEREFORE ORDERED AND DECREED:

(1) That said order of the Interstate Commerce Commission of February 4, 1936, is and has at all times been unlawful and that said order be set aside and annulled.

(2) Said Commission shall take such further action in the premises as the law requires in view of the annulment and setting aside of the said order of February 4, 1936.

This 22nd day of February 1937.

SAMUEL H. SIBLEY,
United States Circuit Judge.
WM. H. BARRETT,
United States District Judge.
E. MARVIN UNDERWOOD,
United States District Judge.

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No. 63

In the Supreme Court of the United States

OCTOBER TERM, 1937

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, APPELLANTS

v.

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF GEORGIA

BRIEF ON BEHALF OF THE UNITED STATES AND THE INTERSTATE COMMERCE COMMISSION

OCTOBER 1937.

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In the Supreme Court of the United States

OCTOBER TERM, 1937

No. 63

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, APPELLANTS

v.

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF GEORGIA

BRIEF ON BEHALF OF THE UNITED STATES AND THE INTERSTATE COMMERCE COMMISSION

OPINIONS BELOW

The opinion of the specially-constituted District Court (R. 55) dated February 23, 1937, holding invalid the report and order of the Interstate Commerce Commission upon further hearing (February 4, 1936) (R. 41) is unreported. The Court's earlier opinion in the same case, filed January 23, 1935 (R. 29) holding invalid an earlier report and

order of Division 5, dated May 10, 1933 (R. 5) is likewise unreported.

The order of the Commission upon further hearing, dated February 4, 1936, appears as Docket No. 9200, *Railway Mail Pay—In the Matter of Application of Georgia & Florida Railroad for Increased Rates of Pay,* 214 I. C. C. 66. (R. 41) The earlier report of the Commission, Division 5, dated May 10, 1933, is reported under the same title in 192 I. C. C. 779. (R. 5)

JURISDICTION

The final decree of the District Court was dated February 22, 1937. (R. 58) Petition for appeal was filed April 16, 1937, (R. 304) and allowed the same day (R. 307). The jurisdiction of this Court is founded upon the Urgent Deficiencies Act of October 22, 1913, c. 32, 38 Stat. 203, 219, 220, (U. S. C., Title 28, Secs. 45 and 47a, Supp. III), and Section 283 of the Judicial Code, as amended by Act of February 13, 1925 (c. 229, 43 Stat. 936, 938, U. S. C., Title 28, Sec. 345.) Probable jurisdiction was noted June 1, 1937.

QUESTIONS PRESENTED

Following a general reexamination by the Commission into the "fair and reasonable rates" to be accorded the railroads generally (other than urban and interurban electric lines) for services performed by them for the Post Office Department, in transporting the mails, the Commission established reasonable rates of pay on all lines, including the

Georgia & Florida Railroad, appellee. The rates so established, effective on August 1, 1928, represented an increase of 15 per cent over the rates formerly in effect for roads over 100 miles in length, and an increase of 80 per cent in the rates on roads not exceeding 100 miles. *Railway Mail Pay,* 144 I. C. C. 675, 719. The Railway Mail Service Pay Act of July 28, 1916, authorized the Commission, in fixing the rates of compensation (U. S. Code, Title 39, Sec. 549) "to make such classification of carriers as may be just and reasonable and, where just and equitable, fix general rates applicable to all carriers in the same classification." After the rates so established have been in effect for at least six months, the statute (section 553) authorizes either the Postmaster General or any carrier to apply for a reexamination of the rates, whereupon the Commission is to hear and consider the application of the individual carrier separately "upon substantially similar proceedings" as in the general investigation. Availing themselves of this right, the receivers of the Georgia & Florida filed an application with the Commission on April 1, 1931 (R. 21) requesting an increase in the rates, alleging that they were not fair and reasonable as to it. After hearing, the Commission, by Division 5, issued a report on May 10, 1933, finding that the rates established August 1, 1928, were fair and reasonable and establishing them as the rates to be received by the carrier on

and after April 1, 1931. *Railway Mail Pay,* 192 I. C. C. 779. (R. 5; 10)

The Georgia & Florida then brought suit to enjoin and annul the order of May 10, 1933, and on January 18, 1935, the lower court rendered its opinion holding in substance that the established rates were less than the cost of the service, and entered its decree enjoining and annulling the order and directing that the Commission take further action. (R. 30) Further hearing was had, and on February 4, 1936, the entire Commission issued a report on further hearing, again finding that the existing rates were fair and reasonable and establishing them as the rates to be received by the Georgia & Florida on and after April 1, 1931. *Railway Mail Pay,* 214 I. C. C. 66. (R. 41; 50) By supplemental bill, (R. 35) the carrier sued to enjoin the order of February 4, 1936, and on February 22, 1937, the court rendered its opinion holding again that the rates were less than fair and reasonable and entered a decree setting aside and annulling the order and once more directing further action by the Commission. (R. 55, 58) The court ruled that the rates fixed were insufficient to produce a proper return. This conclusion of inadequacy in the rates rests upon a so-called "cost study" or estimate of the cost of the service, although the court itself stated that the study was "hypothetical" and not conclusive. (R. 57)

These facts present the question of whether the lower court has not in substance weighed the evi-

dence before the Commission and substituted its judgment for that of the Commission as to the reasonableness of the rates of mail pay.

A subsidiary question, jurisdictional in nature, is whether the special procedure provided by the Urgent Deficiencies Act of October 22, 1913, under which this suit was brought, applies to an order made by the Commission under the Railway Mail Service Pay Act of July 28, 1916 (U. S. Code, title 39, sections 523–568), an Act separate and complete in itself and not an amendment to the Interstate Commerce Act. (Compare *Great Northern Railway* v. *United States*, 277 U. S. 172, 180–182).

STATUTES INVOLVED

Pertinent provisions of the Railway Mail Pay Service Act of July 28, 1916, are set forth in the appendix. But briefly, that Act (Section 541) requires all railway common carriers to transport such mail as may be offered for transportation by the United States under conditions prescribed by the Postmaster General, for which the carrier is to receive "fair and reasonable compensation"; the Interstate Commerce Commission is directed to fix such compensation; in the performance of this duty a wide discretion is left with the Commission, which can prescribe a basis for determining the compensation "by weight, or space, or both, or otherwise", and orders of the Commission fixing the rates are to "continue in force until changed

by the Commission after due notice and hearing." Section 543 of the Act empowers the Commission in fixing rates of mail pay, to consider the relation existing between the railroads as public service corporations and the Government, and the nature of such service as distinguished, if there be a distinction, from the ordinary transportation business of the railroad; another section, 549, authorizes the Commission to make reasonable classification of the carriers and to fix general rates applicable to all carriers in the same classification, but any individual carrier or the Postmaster General, after the lapse of six months, may apply for a reexamination of the order (Section 553). When the rate of compensation has been fixed by the Commission, the Act (Section 551) provides that during the continuance of the order the Postmaster General is to pay the carrier such rate of compensation. Section 554 vests the Commission with all the powers "which it is now authorized by law to exercise in the investigation and ascertainment of the justness and reasonableness of freight, passenger, and express rates to be paid by private shippers." Penalties are provided by Section 563 for failure on the part of a railroad company to perform the mail service at the rates so fixed.

The Act contains no provision for judicial review of Commission orders fixing compensation; what it does provide, if a carrier is dissatisfied with its rate of pay, is a reexamination into the question

by the Interstate Commerce Commission, after the lapse of a 6-months period under the old rates.

STATEMENT

(a) HISTORY OF RAILWAY MAIL PAY LEGISLATION

Before any railroads were constructed in this country, the Postmaster General was authorized to contract with the lowest bidder for carriage of the mail by post coach. Congress approved a law July 7, 1838, making existing railroads and those to be constructed in the future post routes and directed the Postmaster General to cause the mail to be transported by rail, provided it could be done on reasonable terms and in no event at more than 25 percent above the cost by post coach. At various times thereafter legislation was enacted respecting transportation of the mail by railroad. On March 3, 1873, a law was approved which placed mail pay on a weight basis. Various laws were passed in ensuing years which reduced the rates of mail pay and changed the method of ascertaining the weight of the mail carried. For a considerable period prior to 1916 the weights were determined quadrennially by actually weighing the mail for stated periods.[1] Authorizations were issued by the Post Office Department and accepted by the railroads for carriage of the mail for the following four-year period on the basis of the average weight ascer-

[1] A detailed history of railway mail legislation affecting transportation and pay will be found in *Railway Mail Pay*, 56 I. C. C. 1, 3–7 (1919).

tained during the test period. Maximum rates of pay were prescribed by Congress in the appropriation bills for the Department.

On July 28, 1916, the present Railway Mail Pay Act (30 Stat. 425) was enacted, giving the Commission power to determine rates of pay on either a weight or space basis. In the interim the Postmaster General placed substantially all mail routes, except closed-pouch routes, on a space basis.

The first decision of the Commission dealing with rates for transportation of the mail was *Railway Mail Pay* (56 I. C. C. 1), decided December 23, 1919, which fixed rates on a space basis for all the railroads carrying the mails on the general system of flat rates for the entire country, with higher rates for certain short lines less than 100 miles in length. Thereafter, in July 1925, the Georgia & Florida, and numerous other carriers, requested the Commission to re-examine the rates. This application resulted in the decision of July 10, 1928, in *Railway Mail Pay* (144 I. C. C. 675), whereby the Commission allowed the Georgia & Florida and other roads over 100 miles in length an increase in rates of about 15 per cent over the 1919 rates, and "separately operated" railroads under 100 miles in length an increase of about 80 per cent. These increased rates for carrying the mails, which are the present rates received by the Georgia & Florida Railroad, were based upon findings as to the average cost of transporting the mails on all railroads

throughout the United States, other than electric urban and interurban railroads.

By this decision, the Commission, at the request of the Department, authorized the use of additional space units. Prior thereto, the Department could authorize only 3, 7, and 15-foot closed-pouch space units, 3, 7, 15, and 30-foot storage space units, and 60-foot storage cars, 15 and 30-foot apartment cars, and 60-foot railway post office (r. p. o.) cars. The new authorization provided for 3, 6, 9, 12, and 15-foot closed-pouch units, storage units of 3 feet or multiples thereof up to 30 feet, and 60-foot storage cars, 15 and 30-foot apartment cars, and 60-foot r. p. o. cars. These changes gave the Department more flexibility in ordering space and thereby made savings possible. The rates prescribed were on a mileage basis for application to the space units just described, and were graduated, being relatively highest per foot of car length for the smallest unit and lowest for full cars.

The railroads and the Department presented extensive and conflicting cost studies in the 1928 proceeding, which form the basis of appellee's present rates. While the Commission gave principal consideration to the cost of carrying the mail, including a reasonable return on the value of the property used in furnishing the service, it did not accept either cost study in its entirety. The Commission pointed out why too much reliance could not be placed upon cost studies of this character

(144 I. C. C. 675, 691–692).[2] It considered comparisons of the cost of performing other passenger-train services and also special conditions affecting transportation of the mail.

It may be assumed that the rates prescribed in the 1928 *Mail Pay case* were, when fixed, just and reasonable. To determine whether they still are requires an analysis similar to that made at that time so far as data are available. Ascertainment of the cost to the railroads of carrying the mail requires, first, apportioning total operating expenses between freight and passenger services, and next, assigning and apportioning passenger-train expense among the various services performed, mainly passenger and miscellaneous services, and express and mail service. The value of the property used in rendering mail services must also be ascertained. Efforts to comply with these requirements were made by the parties in this case, and the reports of the Commission (R. 5; 41) review in great detail such evidence.

[2] Had the Commission given controlling weight to the railroads' cost study, an increase of approximately 40 percent for roads over 100 miles in length and from 100 to 150 percent or more for roads 100 miles or less in length would have been required to give what the railroads considered the full cost of service plus a profit of 5.75 percent under plan 2, as described in the Commission's report. (p. 681). Under that plan the Department's cost study showed that an increase of at least 25 percent would be required for roads longer than 100 miles, and about 91 percent for roads 100 miles or less in length.

(b) PROCEEDINGS BEFORE THE COMMISSION AND IN THE DISTRICT COURT

After the Commission's decision in *Railway Mail Pay*, 144 I. C. C. 675, granting an increase of 15 percent in the rates for railroads over 100 miles in length, including the Georgia & Florida, the receivers of that railroad filed an application with the Commission on April 1, 1931 (R. 21) alleging that the increased rates were not fair and reasonable as to it and requesting a further increase. On April 9, 1931, the Postmaster General filed an answer contending that, since the rates applicable to the Georgia & Florida and to other railroads were established from statistical and other data submitted by the railroads, the petition should be denied unless the applicant could show its situation was so different from the other carriers in the group as to be exceptional (R. 23–24). In overruling the Department's claim, the Commission said:

> * * * The applicant, however, under the railway mail-pay statute is entitled to show, if it can, upon reexamination that in so far as it is concerned the rates so established are not fair and reasonable. In determining that issue we must take into consideration all factors that have a bearing upon it.
>
> (R. 8).

In a subsequent Commission hearing, the Department and the carrier introduced testimony and evidence relevant to their respective contentions.

The proceeding was fully argued, both orally and in briefs, and in its decision, the Commission (R. 5) held that the existing rates were fair and reasonable. Upon denial of a petition for rehearing, the carrier instituted suit to enjoin the Commission's order. This order is included in the record. (R. 10.) The claim of invalidity was cast on the theory that the Commission made certain findings allegedly supporting the carrier's claim for increased compensation and then reached ultimate conclusions contrary to those findings; that the action of the Commission in holding the rates attacked had not been shown unreasonable was contrary to the evidence, and that the Commission's prescription of the rates deprived the carrier of just compensation. (R. 3–4).

The United States answered (R. 16), as well as the Commission, (R. 18) the latter setting forth affirmatively a detailed statement of the proceedings and denying the material allegations of the petition.

Final hearing was had before a statutory court, which, on January 23, 1935, held the Commission's order invalid, saying:

> * * * The bald fact remains that this railroad is required in order to escape severe punishment (39 U. S. C. A., Section 563) to transport mail at a compensation fixed by such Commission and that such compensation does not pay the actual cost of service. This compensation is not in compli-

ance with the duty on the United States to pay "fair and reasonable compensation" and is not "just and equitable."

(R. 30.)

In the Court's decree, made a part of the opinion, it is said:

> Inasmuch as this court has not the authority to fix the compensation we do not deal with the question of what per cent. of return on the investment, if any, would be required to make the compensation fair and reasonable.
>
> (R. 30.)

The Court directed that the—

> Commission shall take such further action [3] in the premises as the law requires in view of the annulment and setting aside of the said order of May 10, 1933.
>
> (R. 30).

The Court gave no suggestions as to the nature of the further action it desired the Commission to take nor any directions as to the law to be applied. The entire Commission considered the report of its Division 5 which the Court had annulled and set aside, and the opinion of the Court with respect thereto, and reopened the proceeding for further

[3] Despite the fact that the Commission complied with the court's direction to take "further action" in the premises by conducting a rehearing, the District Court in its second opinion held that because the earlier decision was not appealed to this Court, such previous decision established the law in the case (R. 57).

hearing. (R. 32) At this hearing considerable additional testimony and evidence was introduced by both sides. The testimony taken in the two hearings before the Commission was introduced in the lower court and is before this Court in narrative form (R. 60–127) as are pertinent exhibits. (R. 127–304)

At the conclusion of the second hearing additional briefs were filed and oral arguments made, culminating in the report by the entire Commission on further hearing, entered February 4, 1936, 214 I. C. C. 66. (R. 41–50) Once more the Commission found the existing rates of pay received by the Georgia & Florida for its mail services fair and reasonable. (R. 50)

The Railroad Company by supplemental petition filed June 20, 1936, (R. 35) asked the District Court to

> Adjudge, Order and Decree that the Commission reopen and reconsider said proceeding * * * and determine the fair and reasonable rates to be received by petitioners for transportation of the mails on and after said April 1, 1931, in accordance with the evidence and the facts found by this Court.
>
> (R. 40)

The District Court as before constituted reconsidered the case upon the supplemental pleadings, and by its opinion and decree filed February 23, 1937, (R. 55) held the Commission's order invalid

and once more directed the Commission to "take such further action in the premises as the law requires in view of the annulment and setting aside of said order of February 4, 1936." (R. 58)

It seems clear from the above that the Commission is convinced that the Georgia & Florida is being paid mail compensation that is fair and equitable. It seems equally clear that the District Court, weighing the same evidence upon which the Commission so concluded, is convinced that such rates do not result in just compensation to the carrier. It is interesting to consider whether such shunting of the proceedings between Commission and Court must continue indefinitely until at some time in the future the Commission fixes a rate satisfactory both to the carrier and to the court; if such process can be followed, it would appear that the court is indirectly, but none the less effectively, fixing the rates of mail pay despite its statement that it "has not the authority to fix the compensation." (R. 30)

The second opinion of the District Court is more in the nature of a defensive thesis to justify its first decision, but appears to hold that the rates established by the Commission were not sufficient to produce a proper return, and that in fixing mail rates, the Commission was without authority to make comparisons of the returns produced by the established mail pay rates with returns received by the carrier from other services in passenger train cars or with returns produced by freight rates.

While the lower court did not base its decision upon the inadequacy of the Commission's findings, its comment thereon was:

> For the reason that neither report states definitely "Findings of Fact" as such it is not easy to ascertain what different facts existed at the differet hearings. We will do our best to ascertain the differences in facts and in rules of law following the course of discussion in the last report. (R. 56)

However, when it came to consider its own duty to make findings under Equity Rule 70½, the District Court said:

> Inasmuch as all the facts constituting the basis for the order of the Commission are fully set out in the report it is deemed unnecessary to restate them in this opinion as findings of fact, * * *.
> (R. 58)

ASSIGNMENT OF ERRORS

The following errors of the District Court are urged herein:

1. In holding that the Commission's order was unlawful.

2. In holding and deciding, after stating that "neither applicant nor this Court entertains the view that the hypothetical cost 'is necessarily conclusive' ", that the cost study proved that rates established by the Commission and the return produced by them are not fair and reasonable.

3. In weighing the evidence and in reaching a conclusion different from that of the Commission, thus substituting its judgment for that of the Commission.

4. In failing to hold that the evidence introduced by the carrier, based upon approximations, allocations and computations, lacked sufficient certainty and definiteness to prove that the rates established by the Commission were not fair and reasonable.

5. In holding that its earlier opinion established the law in the case and precluded the Commission from considering comparisons with compensation received for other services. (R. 306–307)

The additional point is urged by appellants that the specially-constituted three-judge District Court had no jurisdiction, under the Urgent Deficiencies Act of October 22, 1913, (38 Stat. 219) to entertain this suit. Appellants did not raise this point below, but as it goes to the jurisdiction of the District Court and hence to the jurisdiction of this Court on appeal, the failure to raise it could not, in our opinion, operate as a waiver.[4] *Peoria & Pekin*

[4] This point was not urged in the court below because the suit brought by the Georgia & Florida was the first under the Urgent Deficiencies Act to review a railway mail pay order of the Commission. There are many other carriers similarly situated to the Georgia & Florida and additional suits will be brought if this litigation warrants. For that reason the Commission desired a decision on the merits as a guide. Compare *Dayton-Goose Creek Ry. Co.* v. *United States*, 263 U. S. 456, 475. While the Commission would still prefer a decision on the merits, we regard it as our duty to call the Court's attention to the jurisdictional question.

Union Ry. Co. v. *United States,* 263 U. S. 528, 535–536; *United States* v. *Corrick,* 298 U. S. 435.

SUMMARY OF THE ARGUMENT

I. The Urgent Deficiencies Act of October 22, 1913, providing for judicial review of orders of the Commission, is an amendment of the Interstate Commerce Act and "but a part of the existing system for the regulation of interstate commerce." *Procter & Gamble Co.* v. *United States,* 225 U. S. 282, 294–295. Action of the Commission dealing "with a subject matter not within the scope of the Commission's duty to regulate commerce" is not within the purview of that remedy. *Great Northern Ry. Co.* v. *United States,* 277 U. S. 172, 182. The duty placed upon the Commission to fix reasonable compensation to rail carriers for services performed by them in transporting the mails is a special duty under the Railway Mail Act, separate in itself, and no part of the existing scheme of regulation. As the carrier is not acting in a common-carrier capacity in transporting the mails (*A., T. & S. Fe Ry. Co.* v. *U. S.,* 225 U. S. 640, 649), a Commission order fixing compensation therefor is not a regulation of commerce, and is not within the purview of remedy provided by the Urgent Deficiencies Act for review of certain Commission orders.

II. The lower court's conclusion, and the argument of appellee, that the rates prescribed by the Commission are not fair and reasonable rests en-

tirely upon the results of a "cost study" during a 28-day test period in 1931. The Commission quite properly refused to accept as conclusive the cost-study figures, and considered a number of other factors, fully detailed in its report, showing how untrustworthy such figures were. The weight to be accorded the cost study, like any other evidence, was for the Commission; in accepting as conclusive the cost study figures, which were treated by the Commission as only an "approximation," the lower court substituted its judgment for that of the Commission upon an administrative matter. In addition to the cost study, the Commission felt constrained to consider such factors as the essential character of the space devoted to the mails, the operating facts connected with it, and the kind and character of the service rendered by appellee in transporting the mails. Such consideration showed that the use actually made of the space requisitioned and paid for by the Government was far below the capacity of the space, the average maximum load carried in the 3-foot units of closed-pouch space, except over one run, ranging from 2 to 20 bags as contrasted with the maximum capacity of 56 bags. A fact that stands out in this proceeding is the small amount of mail actually transported by this carrier. The actual loads carried are a factor to be considered.

The operation by the carrier for its own convenience of a 30-foot railway post-office apartment

unit, in lieu of a 15-foot apartment which was ordered by the Post Office Department and is more than ample to meet its needs, results in the operation of a large amount of unused space and increases the amount of space and the expense apportioned to mail. Such operation is an important factor in this case, and the Commission found that the elimination from the mail of any part of the operation of the 15 feet of unused space in the oversize apartment converts a computed operating deficit from mail of $4,945 to a computed operating income of $1,711.

In all mail pay proceedings the Commission has made comparisons of revenues and expenses upon the bases of common units of service per mile. As indicating liberality on the part of the Commission in fixing rates of mail pay for appellee, comparisons based upon space and cost figures as submitted of record show that in passenger-train service operations in 1931, appellee received $35,728 from mail service for 12.96 per cent of the total car-foot miles of service, $7,593 from express for 6.69 per cent, and $36,322 from passenger proper for 80.35 per cent. In other words, mail revenue from 12.96 per cent of the total car-foot miles operated was 44.86 per cent of the total passenger-train service revenues, express revenue from 6.69 per cent of the car-foot miles was 9.53 percent of the total, and passenger revenue proper from 80.35 per cent of the car-foot miles was 45.61 per cent of the total.

Other evidence of record set out in the Commission's report shows that the carrier's mail revenues have remained quite stable, compared with drastic falling off in revenues from other services. Between 1929 and 1931 revenues from passenger proper service decreased 67 per cent, from express 64 per cent, and from mail 12 per cent. The law provides for rates that are "fair" as well as "reasonable," (Cf. *San Diego Land Co.* v. *Jasper,* 189 U. S. 439, 447) but it does not require that the mail rates be increased so as to take care of deficits resulting from a falling off in the carrier's revenues from freight, passenger and express services.

III. The claim of confiscation, based upon the results of the cost study, is without merit. In the first place, facts supporting such a serious charge are not set out in the pleadings, and, secondly, the proof relied upon is insufficient to support the charge. Far more positive efforts to show confiscation than the evidence in this case were held insufficient in *Baltimore & Ohio R. R. Co.* v. *United States,* 298 U. S. 349. Failure to obtain business does not justify the imposition of charges that are exorbitant and unjust. *Public Service Comm.* v. *Utilities Co.,* 289 U. S. 130.

IV. A classification of railroads 100 miles or over differently from roads under 100 miles is a reasonable one, and such a classification has been sustained by this Court in numerous cases. *Chicago, R. I. & P. Ry. Co.* v. *United States,* 284 U. S. 80, 95.

V. (1) This case was decided by the Commission solely upon the record therein, and its reference to other cases was simply to show that in such proceedings consideration was given to other factors as well as the results of the cost studies.

(2) It would seem reasonable to permit the Commission, in a proceeding fixing mail rates, to make comparisons of revenues the carrier receives from other services in the same trains, and the lower court's holding that such a fact was immaterial was erroneous in law, and involved a substitution by that Court of its judgment for that of the Commission as to the weight to be accorded the evidence.

(3) There was no inconsistency, as alleged, in the Commission's findings. The ultimate findings of Division 5 and of the entire Commission, based upon different records, were that the existing rates were fair and reasonable, and in both cases increases were refused.

(4) The lower court's holding that its prior decision, unreversed, established the law of the case, was erroneous. *United States* v. *A., B. & C. R. R. Co.*, 282 U. S. 522. The first decision of the Commission was by Division 5 upon one record; the second decision, upon an augmented record, was by the entire Commission.

ARGUMENT

I. A specially constituted three-judge court assembled under the provisions of the Urgent Deficiencies Act has no jurisdiction to review an order entered by the Interstate Commerce Commission under the provisions of the Railway Mail Pay Service Act of July 28, 1916

A fundamental rule is that the Government may not be sued without its consent. As a necessary consequence of this rule it follows that the only permissible suits against the United States are such as have been expressly consented to. The United States has consented to be sued in the Court of Claims in respect of certain matters, including claims founded upon acts of Congress (except pension acts) and upon contracts, express or implied. It has consented to be sued in other special instances, for example, in suits in the District Court to set aside orders of the Commission entered in the performance of its duties under the Act to Regulate Commerce, as amended, (Urgent Deficiencies Act, 38 Stat. 219; U. S. Code, Title 28, Sections 41, 43, 44) now officially cited as the Interstate Commerce Act, (41 Stat. 499; U. S. Code, Title 49, Section 27).

While in the case of *United States* v. *Los Angeles Railroad Company,* 273 U. S. 299, this Court indicated that one of the criteria of a reviewable order is as to whether or not the particular Commission action is determinative of rights or obligations, and while in the case of *Alton R. R. Co.* v.

United States, 287 U. S. 229, 237, and other cases, this Court has held that in construing an order of the Commission it will look at the substance and not be governed by mere matters of form (a rule with which we are in accord), the decisions in both these cases dealt with orders relating to commerce regulation issued under the Interstate Commerce Act and were directed to carriers which were subject to the Commission's regulatory authority. The order here involved was issued pursuant to special legislation constituting no part of the Interstate Commerce Act. The District Court's special jurisdiction under the Urgent Deficiencies Act was intended only as a part of the existing system for the regulation of interstate commerce under the Interstate Commerce Act and cannot be extended to afford review of Commission action fixing just compensation for a taking by the Government of carrier property, enacted, as we have said, by special legislation constituting no part of the Interstate Commerce Act. The history of the District Court's jurisdiction is outlined in *Procter & Gamble Co.* v. *United States;* 225 U. S. 282, and in *United States* v. *Los Angeles Railroad Co.,* 273 U. S. 299. It is shown in those cases that the Commerce Court Act of 1910 created the commerce court and conferred upon it jurisdiction to set aside, as well as to enforce, orders of the Commission issued under the Act to Regulate Commerce, and that subsequently the Urgent Deficiencies Act

abolished the commerce court and transferred its jurisdiction to the district courts. That the court's special jurisdiction was created as an amendment to and is confined to orders issued under the Act to Regulate Commerce, is apparent from the opinion in the *Procter & Gamble Case,* pages 294–295:

> * * * It cannot be disputed that the act creating the Commerce Court was intended to be but a part of the existing system for the regulation of interstate commerce, which was established by virtue of the original adoption in 1887 of the act to regulate commerce, and which was expanded by the repeated amendments of that act which followed, developed in practical execution by the rulings of the body (Interstate Commerce Commission), upon whom was cast the administrative enforcement of the act, the whole elucidated and sanctioned by a long line of decisions of this court. That in adopting the provisions concerning the Commerce Court and making it part of the system, it was not intended to destroy the existing machinery or method of regulation, but to cause it to be more efficient by affording a more harmonious means for securing the judicial enforcement of the act to regulate commerce is certain. The act creating the Commerce Court (June 18, 1910, 36 Stat. 539, c. 309) was entitled "An Act to create a Commerce Court, and to amend the Act entitled 'An Act to regulate commerce', approved February fourth, eighteen hundred

> and eighty-seven, as heretofore amended, and for other purposes." The first six sections, which called into being the Commerce Court and defined its powers, all demonstrate the purpose as above stated, that is, to adjust the powers and duties of the newly created court in such manner as to cause them to accord with the system of regulation provided by the act to regulate commerce as it then existed.

A construction permitting review under the Urgent Deficiencies Act of an order made by the Commission fixing just compensation for a "taking" of the carrier's property used in transporting the mail, appears to us to be not only out of place in a system set up solely for commerce regulation, but likewise would not be in harmony with the general scheme of jurisdiction in respect of suits against the Government. *Procter & Gamble Case, supra,* pp. 299–300.

This Court has held that in transporting the mails, the carriers are not acting in a common-carrier capacity. *A., T. & S. Fe Ry. Co.* v. *United States,* 225 U. S. 640, 649. See also *German State Bank* v. *Minneapolis, St. P. & etc. Ry. Co.,* 113 Fed. Rep. 414; *Bankers Mutual Co.* v. *Railroad Co.,* 117 Fed. Rep. 434. The Railway Mail Pay Service Act is a separate statutory enactment, no part of the Interstate Commerce Act, by amendment or otherwise, conferring upon the Commission the judicial duty (*United States* v. *New York Central R. Co.,* 279 U. S. 73, 78) of fixing reasonable rates of pay

for requisitioned mail services. The 1916 Mail Pay Act does not incorporate, either directly or indirectly, by reference or otherwise, the provisions of the Urgent Deficiencies Act enacted in 1913 for the review of Commission orders. Indeed, the 1916 Act makes no provision whatever for Court review of the Commission's action thereunder. We do not contend that the Commission's order fixing rates of mail pay is final and not reviewable in some court; what we do urge is that a specially-constituted three-judge court, constituted as was the lower court in this case, is not the proper tribunal. If, as held by this Court, the carrier in transporting the mail is not acting in a common-carrier capacity, it is clear, we think, that in making orders affecting mail pay the Commission is not exercising a regulatory supervision over the carriers in their common-carrier capacity.

Our views are supported by the decision of this Court in *Gt. Northern Ry.* v. *United States,* 277 U. S. 172, which involved a certificate issued by the Commission under the so-called guaranty provisions of the Transportation Act, 1920, Secs. 209 and 212. This court said:

> The function imposed upon the Commission by § 209 is solely that of determining the amount required to make good the Government's guaranty. It is not an exertion of the delegated power to regulate interstate commerce. It is an incident of the World War—a temporary, non-recurrent task,

which might appropriately have been performed for the Treasury by its Comptroller or auditors, or by other trusted official. Congress selected the Commission for this service, doubtless, because of its special fitness. For the Commission had knowledge of railroads and experience in railroad accounting; it had the custody of the records of railroad operations; and its staff was competent to make speedily the necessary investigations.

Transportation Act, 1920, did not confer upon the Commission power to order anything in connection with the issue of the certificates. There is in the certificates no direction, no word of command. They are the recital of a finding of fact. They are addressed to the Secretary of the Treasury; and only to him. The form of the certificate expresses appropriately the character of the service performed by the Commission. * * *. Because issuing certificates is not a part of the Commission's delegated power to regulate commerce and is not an incident of such regulation, the special remedy provided by the Urgent Deficiencies Act is not available to review the legality or correctness of its action in doing so.

In holding the special remedy given by the Urgent Deficiencies Act was inapplicable, the Court, at page 182, said:

* * * For the inapplicability of the special remedy given by the Urgent Deficiencies Act is due to the fact that the certificate deals with a subject matter not within

> the scope of the Commission's duty to regulate commerce, and hence, not within the purview of that remedy. In this respect, among others, it differs from the order involved in *Dayton-Goose Creek Ry. Co.* v. *United States,* 263 U. S. 456.

After stating that the court had "no occasion to enquire whether a remedy at law or some other remedy in equity is available" as the "mere fact that the certificate may be conclusive, if it be a fact, would not entitle the Company to a judicial review", (p. 182) the opinion concludes:

> * * * We find no reason for thinking that because Congress confided to the Commission the task of certifying the amount to be paid to carriers from the public treasury, as an incident to the World War, it thereby consented that the United States should be sued in the special proceeding in equity devised long before to control the Commission's execution of its regular functions in enforcing the Interstate Commerce Act.
>
> (Id. 182–183).

II. The action of the Commission in declining to order an increase in the rates of railway mail pay for the Georgia & Florida is supported by substantial evidence and was not arbitrary in any respect

It was recognized by the Commission early in its deliberations under the Mail Pay Act that, in fixing rates for transportation of the mail, it was dealing with a "perplexing problem" in that "there are many circumstances and conditions in connection with its transportation that do not obtain with

respect to any other traffic." *Railway Mail Pay*, 56 I. C. C. 1, 63. There was a difference of some $50,000,000 a year in the amount the Post Office Department believed it should pay and the amount the carriers as a whole claimed. (Id., p. 27.) Under rates established by Congress, payment to the railroads for mail service in 1917 totaled $74,165,246. At the time of the Commission's first decision under the Mail Pay Act (56 I. C. C. 1), the payments amounted to $78,132,000. In 1926, the payments had increased to $96,326,466 (*Railway Mail Pay*, 144 I. C. C. 675, 677).

There are five classes of mail service; (1) full railway post-office car service, consisting of the transportation, handling, etc., of mails in full 60-foot cars; (2) storage car-service, which is the transportation in full cars of made-up mails in bulk; (3) storage space service, which is the transportation in a portion of a car of made-up mails in bulk; (4) apartment railway-post-office car service,[5] and (5) closed-pouch service.[6] Only the last

[5] In *Railway Mail Pay*, 56 I. C. C. 1, 10, the Commission said that Apartment Railway Post Office Car Service consists of the transportation, handling, distribution, and delivery of mails en route in apartment cars of 30 feet and 15 feet; that a part of the car is separated by a partition from the remainder of the car; that the amount of storage space in apartment cars is limited as distribution is the primary function of the car, and that made-up mails are stored in storage-space units run in connection with the apartment cars, usually in the baggage end of the same car.

[6] Closed-pouch service is transportation and handling of made-up mails in baggage cars on trains upon which no

two units of mail service are authorized and used on the Georgia & Florida, a 15-foot railway post-office apartment unit, the rate for which is 14.5 cents per mile and a 3-foot closed pouch unit, the rate for which is 4.5 cents per mile. (R. 6) During the test period 95 per cent of the service was rendered in the 15-foot apartment unit paying the higher rate. (R. 6)

The method by which the appellee and the Department derived the cost data in this case was the method used in other Mail Pay Cases, and is as follows:

There was substantial agreement between the Department and the railroad as to methods of allocating and apportioning expenses and ascertaining property investment as between freight and passenger services. Rules prescribed by the Commission governing separation of operating expenses between these services on large steam railways were used in preparing the cost data. Expenses of the passenger service were then directly allocated as far as possible to passenger proper, including baggage and miscellaneous, express, and mail. The

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R. P. O. of apartment cars are authorized. This service is entirely in the hands of the railroad company, its employees loading, handling, and delivering all the mails and being held responsible therefor. The mails handled in this service comprise all classes. The limits of service authorized by the law are of 7 feet and 3 feet—both sides of car. (*Railway Mail Pay*, 56 I. C. C. 1, 11). Additional units were authorized by the Commission in a subsequent decision. (*Railway Mail Pay*, 144 I. C. C. 675, 719.)

remaining expenses common to all three services were apportioned upon the space ratios. A test period [7] of 28 days, from September 28 to October 25, 1931, for the purpose of obtaining space and other data, was agreed upon. (R. 6) Forms were prepared and sent to the railroads, providing for reporting all space operated in passenger trains, classified according to the use to which the space was devoted; that is, all space used for passenger service proper, including baggage and miscellaneous, express, and mail was reported. (R. 6) In this classification, however, the space authorized for mail instead of that actually used was assigned to mail. The unused space [8] and the unoccupied space in combination and mixed-traffic cars was also reported. The distribution of the total among the several services is made in accordance with "Plan 2." (R. 6)

Under Plan 2, car-miles and car-foot miles of operation in cars employed exclusively for one service are referred to as full cars, whether com-

[7] The 1931 test period was not supplemented by figures based upon a test for later years. (R. 41) The trial in the District Court was in December, 1936. That appellee might well have been required to bring forth evidence and estimates "as near as possible to the time of trial in the district court" is indicated by this Court's decision in the Citrus Fruit Divisions Case, *Baltimore & Ohio R. Co.* v. *United States*, 298 U. S. 349, 379, 380.

[8] "Unused space" in the instant case represents the unoccupied space to be found in the baggage end of combination cars and in mixed-traffic cars operated to accommodate the three classes of service.

pletely loaded or not, and the entire operation of each is allocated to the service to which it is assigned. (R. 6) The space in combination and mixed cars is allocated to each service according to the space used, except that (1), space authorized for mail is regarded as space used (R. 7) and (2) all space in separate apartments, (whether for passenger, mail, or express) in combination cars is treated as used space and is assigned to the service for which the apartment is used. The unused space, i. e., the unassigned space, in combination and mixed cars is apportioned among the three services in proportion to the space used by each service in such cars.[9] Testimony and exhibits showing the results of these studies were fully covered at the hearings.

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[9] In *Railway Mail Pay*, 144 I. C. C. 675, 681, 682, the Commission said:

"Plan 2 recognizes the fact that an apartment is only a fraction of a car, that the operation of that fraction requires the operation of a whole car and that the operation of a whole car necessarily causes the operation of a certain amount of unused space in the remainder of the car. The justification for apportioning some of this unused space to the service using the apartment is that the car is the unit of operation and that the unused space outside the apartment, necessarily operated in a combination car to supply the space required for service in such cars, is due to the apartment service as much as the services in the baggage end. We have considered the combination car to be a mixed traffic car and have dealt with the unused space therein in the same manner as in any other mixed car irrespective of the existence of the partition separating the apartment from the rest of the car." * * *

The results obtained are described in the report on rehearing as follows:

> In the test period, 3,045,704 car-foot miles were operated in passenger-train service. The distribution of this made by applicant to the three services, in the manner described, resulted in final space ratios as follows: Passenger proper, including baggage and miscellaneous, 78.05 percent; express 6.92 percent; and mail 15.03 percent. The total expenses allocated and apportioned to the passenger-train service as a whole for the year 1931 was $315,272. Of this, $1,295, or 0.41 percent, was directly assigned to passenger service. The remainder, $313,977, was regarded as expense common to the three services and was apportioned among them by applying the space ratios of the test period. In this distribution, 15.03 percent, or $47,191, was apportioned to mail service.
>
> Investment in road and equipment allocated and apportioned to passenger-train service by applicant for the year 1931 was $3,554,377. The amount apportioned to mail by using the mail space ratio of 15.03 percent was $534,223. Applicant computes a return on this amount, at 5.75 percent, of $30,718. The expense plus the stated return equals $77,909. The mail revenue for 1931 was $35,728. The additional revenue required based upon these figures would be $42,181, or an increase of 118 percent.
>
> (R. 42–43)

This 118 percent or $42,181, is what the carrier refers to as a "needed increase". The report of

the Commission (R. 43) shows that that figure was computed solely by applying the ratios derived from the space data of the test period of 28 days in 1931, to the expenses for the entire year of 1931, and adding a return of 5.75 percent upon an amount calculated to be the investment in road and equipment, assigned to mail service, upon the basis of the mail space ratio. It was apparent on the face of the computations that if the data of the test period were not representative [10] of the operations for the entire year 1931, the ultimate result was distorted. A very simple calculation showed that the car-foot mile figures of the test period extended to one year were only 82.78 percent of the actual car-foot miles operated in that year. Therefore, it was wholly improper to regard the test period data as representative of the year's operation, to apply the ratios obtained from it to the operating expenses for that year, and use the ratio of the mail expense so derived to compute an amount to be assigned to the mail service as its share of the carrier's investment in road and equipment. As a result of this adjustment the Post Office Department derived a space ratio for mail of 12.96 percent instead of 15.03 percent, and the application of the lower ratio to the computed expenses of the passenger-train service resulted in a computed mail expense of $40,673, or $6,518 less than the amount first computed. (R. 43).

[10] As showing how unrepresentative the figures for the test period are: In 1931, the apartment service constituted but 72.15 percent of the total (R. 6), while in the test period it was 95 percent. (R. 6)

Investment in road and equipment figures were detailed in the report, and also a discussion of the amount to be allocated and apportioned to the mail service. (R. 43.) In showing these figures, and in explaining how the carrier concludes that it now requires an increase of 87.4 percent to assure it reasonable rates, the Commission said:

> The department's exhibits showed applicant's investment in road and equipment allocated and apportioned to passenger-train service as $3,536,834, or $17,534 less than applicant's figures. Under plan 2 this was apportioned among the three services upon the ratios of total railway operating expenses allocated and apportioned. These ratios were substantially the same as the space ratios, the mail-expense ratio, for example, being 12.90 percent and the space ratio 12.96 percent. The total mail-service investment thus derived was $457,082. A return of 5.75 percent upon this sum amounted to $26,282 which, with the computed expense, brought the total claim for increased compensation to $31,227, to meet which would require an increase of 87.4 percent in the rates now paid.
>
> (R. 43)

The carrier would have the court treat these statements as formal findings of the Commission, but the mere statement of the mathematical results obtained by applying certain percentages to certain figures does not constitute formal findings that any particular facts are thereby proved nor establish anything as a fact by which the Commission or

this Court is bound as a matter of law. The Commission stated those figures in its report to show what the carrier claimed, the basis for that claim as set up by it, and the computed results of the "cost study" as related by the parties in oral testimony and shown in their exhibits.

The position of the carrier appears to be that a claim, such as that presented to the Commission by it, is settled as a matter of law by the mathematical results obtained in a statistical study made according to an agreement between claimant and the Department as to methods and formulas to be applied in connection with it. If such position were sustained, the Commission would be deprived of all real authority in the performance of its function under the powers granted it by Congress to fix and determine the fair and reasonable rates and compensation for the carriage of mails by railroads. It would become nothing more than a checker or annotater of the statistics submitted to it. Appellants take a more rational view of the Commission's functions than that. The District Court, also, appears to entertain the same view as appellee. For, after saying that "Neither applicant (the appellee) nor this Court entertains the view that the hypothetical cost is 'necessarily conclusive' " (R. 57) it added that "It is merely the fairest method that has been devised." (R. 57)

The carrier endeavors to make some point of the fact as stated by the Commission, (R. 43) that it did not contest the adjustment made by the Depart-

ment. The argument seems to be that by not contesting the adjustment of the space figures of the test period the carrier surrendered a portion of a just claim and that as the adjustment operated against that claim and gave an alleged advantage to the Department, no further adjustment reasonably could be made. That argument is merely an extension of the argument heretofore considered, namely, that the Commission is foreclosed by such action of the parties from going further into the evidence, from studying the essential character of the space, the operating facts connected with it, and the kind and character of the service rendered by the Georgia & Florida in transporting the mails, and from making any adjustments in the figures in the light of its own examination of the data.

The Commission declines to accept such a theory as to its duty and powers under the mail pay acts. Even if the parties had not made the adjustment in the original data referred to, the Commission would have had the right to make it itself in view of the evidence. There is no particular significance, so far as the Commission is concerned, in the fact that the carrier failed to contest the adjustment when made by the Department.

In both reports, the Commission weighed the results of the cost study; in the first report it characterized the study as an "approximation to be given such weight as seems proper in view of all the circumstances," (R. 9) and in the second report

it spoke of the "cost computed in the manner described" as a "hypothetical cost" (R. 44), and referred, on that account, to the many other factors the Commission must consider in a case such as this. (R. 44) The weight to be accorded by the Commission to the cost study, like the question of the weight to be accorded any other item of evidence, is peculiarly for the Commission. *Illinois Commerce Commission* v. *United States,* 292 U. S. 474, 480–481. Cf. *Baltimore & Ohio R. R. Co.* v. *United States,* 298 U. S. 349.

(A) RELIABILITY OF THE SPACE STUDIES

In addition, the Commission refers to facts (R. 45–48) tending to raise doubt as to the reliability of the space study as a basis for determining the cost of service, because (1) the 3-foot units of authorized space are regarded as the full space used by mail in such service, regardless of the mail load carried, and (2), the carrier operates a 30-foot apartment to fill the authorization for a 15-foot apartment.

(1) Actual use of 3-foot closed-pouch units

It appears to us quite proper for the Commission to consider the use actually made of the authorized space and to consider the fact that such use was far below the capacity of the space. Where the authorized space is not fully used such a method tends to increase the true mail-space ratio in two ways, first, by the amount of space in the authorized units

not actually occupied by the mails and, second, by apportioning to the mails a larger share of the unused space in the remainder of the car in which the mail is carried, said unused space being divided among the several services using the car in accordance with the space directly assigned to each service. The report (R. 47–48) reads:

> * * * The full capacity of a 3-foot unit, which contains 121.5 cubic feet, is 56 bags of mail or the equivalent in packages not carried in bags. The largest number carried during the test period in the 3-foot units on the various trips, including all routes, ranged from 6 to 27 bags, except for service on Sundays only between Tennille and Keysville, Ga., where 61 was the maximum. The average of the maximum loads, however, on all trips, ranged from 2 bags on the Broxton-Douglas route to 20 bags on the Midville to Statesboro, via Graymont route, except on trips between the two points above named, where the maximum was 55 bags. The minimum number carried on any trip ranged from 1 to 6. The average minimum load ranged from one bag on the Tennille-Keysville route to nine bags on the Douglas-Broxton route. The space furnished to meet authorizations for 3-foot units is not set aside for exclusive mail use. The mail sacks and packages are carried with the baggage and express and may actually use more or less than 3 linear feet of car length, depending upon the number and the arrangements

for loading and unloading the mail, baggage, and express en route.

The cubic capacity of a three-foot unit in a car 9 feet wide is 121.5 cubic feet. This allows for an aisle space 1½ feet wide at the floor and 3 feet wide at the top and the piling of the mail to a height of 6 feet. If the mail were actually piled in such a unit on appellee's trains the unit would be rarely filled to capacity. In actual practice closed-pouch mail is carried with baggage and express matter and dispatched at the various railroad stations with the latter. Three linear feet of car length, however, in a car 9 feet wide, without any allowance for aisle space, supplies 27 square feet of floor area, so that even on that basis, it would seem that average maximum loads of from 2 to 20 bags, or the equivalent in packages, carried by the Georgia & Florida occupied but a small amount of the floor area. The fact that stands out in this whole proceeding is the small amount of mail actually transported by this carrier.

The Commission properly considered also the method of handling the mail in the two types of service furnished by the carrier, that is, apartment service and closed-pouch service. Its statements as to those matters (R. 49–50) were:

> The record shows that mail in the 15-foot apartment service was handled en route by post-office clerks, and that mail in the 3-foot authorizations was handled on the trains by

railroad employees. The latter service in 1931 constituted 27.85 percent of the total mail service and furnished 12 percent of the mail revenue. The record also shows that the average maximum mail load in the 3-foot units, except over the one run previously mentioned, ranged from 2 to 20 bags or outside packages, which was below the maximum load of 56 bags or the equivalent in packages. If adjustment in the computed data were made to reflect the actual use of the 3-foot units, the actual car-foot miles of mail service probably would be less than the authorized and the unit revenue per car-foot mile from mail would be somewhat greater. Expense of transporting mail per authorized car-foot mile, in view of the service rendered by applicant on its trains in connection with it, might reasonably be considered to be somewhat less per car-foot mile than for passenger-train service as a whole.

In determining what are fair and reasonable rates of pay, the Commission is not prohibited from considering the method of handling mail on the train, nor from considering the fact that the average maximum load carried in the 3-foot units of closed-pouch space, except over one run, ranged from 2 to 20 bags, or packages outside of bags, as contrasted with the maximum capacity of 56. It also is clearly permissible for the Commission to comment upon the probabilities inherent in a possible adjustment of the data made to reflect actual

use, and to suggest that the expense of transporting mail per unit of authorized space "might reasonably be considered somewhat less per car-foot mile than for passenger-train service as a whole." (R. 50). Appellants submit that such statement is supported by evidence of actual operation detailed in the report and further submits that in determining reasonable compensation for the minimum unit of space that can be authorized, the actual quantity of mail carried in such space is an important factor to be considered.

The statistics with respect to the 3-foot closed-pouch unit cannot be explained away as unimportant. It is true that in the first report, Division 5 referred to the "small amount of closed-pouch space in relation to the total in the test period." (R. 9) But reading those words in their context, it is apparent that the Commission was referring to the small amount in relation to the total in the test period and not to the relation on the basis of a year's operation which showed that the miles of such service constituted 27.84 percent of the total miles of mail service and that the revenue therefrom was 12 percent of the total mail revenue. (R. 9) In the report of the Commission on further hearing the actual use of that service by the Department was again discussed. (R. 47–48). It is obvious, therefore, that both Division 5 and the Commission did not treat that service as unimportant.

Appellee urged in the court below that "it should not be overlooked that all closed pouch units are arrived at wholly on an average count of pouches and packages." In the instant case the Department showed the actual number of pouches and packages carried in the 3-foot units on all trips during the test period and compared these figures with the average number derived from tests described in 95 I. C. C. 493, 496. (R. 47).

(2) Operation of oversize railway post office apartment

Another reason why the space data of the test period "cannot be accepted as an accurate guide to an ascertainment of cost," arises in connection with the operation of the 15-foot railway post-office apartment. (R. 45.) The evidence shows, and the Commission found, that for its own convenience (R. 45), the carrier operates a 30-foot R. P. O. apartment to fill the authorization for a 15-foot apartment. (R. 45). The 30-foot apartment was partitioned from the remainder of the car. In the said remainder of the car express, baggage, and miscellaneous traffic were carried. Such a car is designated in mail pay proceedings a "combination" car, as distinguished from a car with no partition to segregate classes of traffic, designated a "mixed-traffic" car. Partitions are placed in combination cars for the specific purpose of supplying space for exclusive use of the particular class of service using the apartment thus segregated. A post-office apartment is fitted with racks, cases,

tables, etc., and can not be used for any service other than mail service when mail is carried in it. The report, in reference to the operation of the 30-foot railway post-office apartment instead of a 15-foot railway post-office apartment, further states (R. 45):

> * * * It results in the operation of an amount of unused space equal to the authorized 15-foot apartment and thus increases the amount of space and the expense apportioned to mail. * * *.

Appellee disputes the accuracy of this statement, but that it is true can be demonstrated as follows: Unused space in combination cars normally occurs only outside of apartments, because in the space study all space in apartments designated for the exclusive use of a particular service is allocated directly to that service. The Department, however, is authorized by law to request service only as the needs of the postal service require and pursuant to that duty it requested this carrier to furnish a 15-foot railway post-office apartment. Instead of doing so, the carrier, for its own convenience, elected to run the combination car containing a 30-foot railway post-office apartment. Under those conditions the Department properly refused to accept in the space study the direct allocation to the mail of the full 30-feet of railway post-office apartment space, but only 15 feet. The remainder of the 30-foot apartment was treated as unused space and

was added to the space classed as unoccupied, or unused, which, as before stated, occurs normally in the combination car only outside the apartment, and in mixed-traffic cars. The 15 feet unused in the 30-foot railway post-office apartment is an entirely different category of space from unused space in the remainder of the car but to account for it in the space study it "was added to unoccupied space in the combination car" (R. 45) and "to the total unused space in the combination and mixed-traffic cars and apportioned among mail, express and passenger services in proportion to the space used in such cars." (R. 45) The 15 feet of space thus added to the total unused space was, and continues to be, wholly different from the other unused space, because it was and is a part of a segregated apartment, fitted with railway post-office equipment and wholly excluded from use by any service. The unused space in the remainder of that car and in mixed-traffic cars is free space available at all times for use by any service; it fluctuates in amount during the run of the train as the need for space by baggage, express, and miscellaneous traffic fluctuates.

Contrary to the carrier's contention, the location of the partition plays an important part in determining what space is classed as used and what unused. If the 15 feet of space unused in the 30-foot apartment had been in the other part of the combination car, stripped of its postal equipment, it

would have been available to meet the needs of the express, baggage and miscellaneous traffic. The space allocated to such other services in that event probably would have been different, because the space used by each such service, unlike the mail service, was determined in the space study on a measured basis as stated in the report (R. 42) as follows:

> * * * Space authorized for mail was considered to be the occupied or used mail space regardless of the extent it was actually used. Space occupied by passenger and express services in such cars was measured at certain points on the railroad where the load carried for each service was considered to represent an average for the whole route. Neither the first nor the last part of the run was taken. The average space thus measured was used in computing the total car-foot miles occupied by each such service for the run of the car. * * *.

The Commission, in connection with its statement that the extra 15 feet of space in the railway post-office apartment was added to the total of other unused space, said (R. 45–46):

> * * * This was done, apparently, upon the theory that if the apartment had been changed to a 15-foot apartment, the remainder of the 30-foot apartment would have been unused and that, therefore, the mail would have been charged, in the space study, with the same proportionate amount. The

assumption, however, rests upon the further assumption that the average measured space reported as used by express and by baggage and miscellaneous services would have been the same.

The space occupied by passenger and express services in the combination car, which was determined upon the measurement basis, obviously depended upon the space available for such services and the amount of baggage, express, and miscellaneous traffic carried. If the 15 feet of surplus space in the 30-foot railway post-office apartment had been free of postal racks and equipment and had been on the other side of a partition placed so as to separate a 15-foot apartment from the baggage and express end of the car, it would have been available for use and some of it might have been used and allocated in the measured space basis to such other services. It was, however, wholly segregated and occupied with fittings of a 30-foot railway post-office apartment and unused only in the sense the Department did not use it. To say that such space occupied with postal car fittings is of the same category as wholly free unoccupied space is contrary to the fact and contrary to common understanding. The space study dealing as it did with all types of space, classed the 15 feet as wholly unused space and as such the mail service was made to assume a proportionate part. The Department in accepting that share conceded something it did not have to concede because that unused fitted space

was operated by the carrier solely for its own operating convenience, and to that extent the Department treated appellee generously. The Commission, however, was not bound by that concession and could form its own conclusion as to the effect of so allocating the unauthorized and unused 15 feet of fitted railway post-office apartment space. Appellee would make no distinction between space fitted with post-office racks, cases and other equipment, and unencumbered space in the remainder of the same car. This assumes that furnishing a 30-foot railway post-office apartment, fully equipped with post-office car fittings, in lieu of a 15-foot railway post-office apartment similarly equipped, resulted in the operation of identically the same kinds of space in the whole car with identically the same proportions of each kind. The actual operating facts can not thus be ignored. It is to be remembered that all space in the authorized 15-foot railway post-office apartment is charged against the mail even if only partly used and in that respect the space is treated in the space statistics in the same manner as the space in a full passenger car or in a passenger apartment.

The operation of the 30-foot apartment, although the Department has need for and authorizes only a 15-foot apartment, constitutes a substantial part of the total service rendered. In the test period, 95 percent of the service was rendered in the 15-foot authorization. (R. 6) In the calendar year 1931,

the apartment service constituted 72.15 percent of the total. (R. 6). The Department does not and may not make any use of the extra 15 feet of space in the 30-foot apartment. It does not, in fact, use all of the 15 feet authorized. An inspection of the 15-foot authorization in the said apartment, made in March, 1935, disclosed that the distribution facilities and the storage space actually used in the authorized 15 feet did not average over 50 percent of the space available in that amount of authorized space. (R. 45) Faced with those facts, the Commission in its report showed what the effect would be if the 15 feet of unused fitted space in the 30-foot railway post-office apartment had not been treated in the space analysis as wholly free space available for use, and had not been added to the unused freely available space in combination and mixed-traffic cars. Its statement on that point is as follows (R. 46):

> * * * The amount of unused space due to the operation of the 30-foot apartment in lieu of a 15-foot apartment was 247,101 car-foot miles and the share of this apportioned to mail was 79,541 car-foot miles. If this amount were eliminated from the total apportioned to mail and assigned to the other services upon the assumption it was and is unnecessarily operated insofar as mail is concerned, an assumption justified upon this record, the mail-space ratio would be reduced to 10.79 percent and the computed mail expense would be reduced to $34,017 or

> $1,711 less than the revenue. This is 27 percent less than the expense computed from the unadjusted test-period data and 16 percent less than that computed by the department upon its adjusted data. * * *.

In any scrutiny of a cost study based upon an analysis of underlying operating space statistics, it is proper to consider the cause of and the occasion for the operation of any space classed as unoccupied or unused. In this instance the character of that space is also important. A consideration of the operating facts reveals clearly that the carrier operated the extra 15 feet of unused fitted space for its own convenience and has continued to operate it to the present day. The total length of the car is 55 feet and thus the 15 feet of unused fitted space constitutes 27.2 percent of the entire car. It is clear that such space is unnecessarily operated as space unavailable for use by other services. It is entirely reasonable to examine such facts to determine whether it is just to charge any part of the space so operated to the mail service and thus increase the mail share of the space, increase the mail space ratio and increase the share of the common expenses charged to mail. When it is considered that in the same study the apportionment of common investment in road and equipment is made upon the basis of the ratios of expense thus computed the cumulative effect of including an amount of space not properly chargeable can readily be seen.

Without following the matter through all the possible computations it can be observed, from the language last quoted from the Commission's report, that the elimination from the mail of any part of the operation of the 15 feet of unused fitted space in the oversize apartment converts a computed operating deficit from mail of $4,945 to a computed operating income of $1,711. (R. 46) (R. 43)

Appellants submit that it was the Commission's duty to go behind the results of the cost study, to analyze the assumptions upon which it is based, and to check the results in the light of actual operating conditions.

(3) Comparisons of revenues and expenses

The Government invites the Court's attention to the fact that comparisons of revenues and expenses upon the bases of common units of service per mile have been made by the Commission in all mail pay proceedings; in passenger-rate proceedings (cf. *Passenger Fares and Surcharges,* 214 I. C. C. 174, 179, 180, and appendix 1); in freight rate proceedings (cf. *Cottonseed, Its Products, and Related Articles,* 188 I C. C. 605, 636); in express rate proceedings (cf. *Express Rates,* 1922, 83 I. C. C. 606, 647, 651); and in cases dealing with divisions of joint rates between railroads (cf. *Divisions of Freight Rates,* 203 I. C. C. 299, 325, 327).

Under these circumstances, the following comparisons, indicating liberality on the part of the Commission in fixing rates of mail pay, become

pertinent. In the report on further hearing (R. 48-49) the Commission said:

> A comparison of revenue received by applicant from the three services rendered in passenger-train service shows that the mail service pays considerably more for equivalent units of service than passenger proper, or express. The units used in this comparison are derived from the space ratios and include proportionate amounts of unused space, without considering the amount and character of such space or the load carried in the 3-foot units.
>
> In passenger-train service operations in 1931, applicant received $35,728 from mail service for 12.96 percent of the total car-foot miles of service, $7,593 from express for 6.69 percent, and $36,322 from passenger proper for 80.35 percent. Revenue per car-foot mile, based upon the above percentages of space, from mail was 5.75 mills, from express 2.36 mills, and from passenger proper 0.94 mill. Upon a computed unit-of-service basis, the amount paid by the department for carrying mail was about two and one-half times as much as the amount received by applicant from carrying express and about six times as much as the amount received for passenger service proper. Mail revenue from 12.96 percent of the total car-foot miles operated was 44.86 percent of the total passenger-train service revenues, express revenue from 6.69 percent of the car-foot miles was 9.53 percent of the total, and

passenger revenue proper from 80.35 percent of the car-foot miles was 45.61 percent of the total.

The foregoing computations are derived solely from the space and revenue studies. They show that in relation to the other services the department pays a considerably greater amount per car-foot mile of service than the carrier receives from other services rendered in the same trains.

The Commission made a further analysis comparing the average computed expense per car-foot mile of 0.6573 cents for passenger-train service as a whole, based on operations in 1931, including therein the total space operated, whether used or unused, with the computed expense per car-foot mile, derived from the space study, for each of the three classes of service furnished in passenger trains, passenger proper including baggage and miscellaneous traffic, express, and mail. The figures so computed indicated that the expense per car-foot mile for each service, namely 0.658, 0.655, and 0.654 cents, respectively, approximated the average expense per car-foot mile assigned to passenger service as a whole. The report then stated that for the year 1931, the average revenue received per car-foot mile of authorized mail service was 1.0297 cents, which was 56 percent in excess of the average computed expense per car-foot mile for passenger-train service as a whole for all space operated. (R. 49.) The Commission nowhere in the

report stated, as appellee contended below, that the difference or any other amount represented a profit to the carrier nor showed how much profit it would make were it to operate its passenger service as solid mail trains. The Commission gave the result of the computations as one of the factors to be considered in arriving at its ultimate conclusion that the rates now paid were fair and reasonable.

The analysis of the space statistics and the cost statistics indicated that the average expense per car-foot mile of all space operated in the passenger trains and the average expense per car-foot mile for each service, including for each service a proportionate amount of the unused space operated in combination and mixed-traffic cars, were about the same and that when those average expenses per car-foot mile were compared with the revenue per car-foot mile received from the actual mail space authorized by the Department and furnished by the carrier, the result indicated that the revenue received for mail space authorized and furnished was 1.0297 cents per car-foot mile as compared with an average expense per car-foot mile of 0.6573 based on the total car-foot miles operated in the entire passenger train service. (R. 49)

To avoid any misunderstanding of the basis of the comparison, the Commission pointed out (R. 49) that the comparison made of revenue per authorized car-foot mile of mail service with the average expense for passenger service as a whole plus

the stated return, and with similar figures for mail service "does not take into consideration any distribution of mail revenue to unused space apportioned to the mail." (R. 49)

The Commission quite properly rejected such conjectures and speculation as affording no basis for finding the existing rates unfair and unreasonable.

(4) Mail revenues have remained fairly stable

The report also shows that the carrier's mail revenues have remained stable as compared with its revenues from other services, reading in this connection:

> The data also show that in the three years 1929 to 1931, inclusive, mail revenues have been relatively more stable than the revenues from the other passenger-train services. In 1929, the revenue from passenger proper, including baggage, etc., was $111,289, from express $21,681, and from mail $40,904. In 1930, revenue from passenger proper, etc., was $64,038, from express, $12,463, and from mail, $39,087. In 1931, revenue from passenger proper, etc., was $36,322, from express, $7,593, and from mail, $35,728. Revenue from passenger proper decreased 67 percent, from express, 64 percent, and from mail, 12 percent.
>
> (R. 8).

The Commission referred, without comment, to the Department's proposal that "if the mail-pay

rates are increased consideration of economy might compel a discontinuance of apartment-car service where closed-pouch service at lower rates would suffice."[11] (R. 9)

(5) Nature of the Commission's power

The power conferred upon the Commission by the Mail Pay Act is not the ordinary power to regulate the charges of interstate railroads for performing common-carrier services; instead it is the power of fixing just compensation for a "taking" of private property for public use. In the condemnation case of *Olson* v. *United States,* 292 U. S. 246, this Court indicated that "prevailing prices" should be considered as a measure of market value (p. 257) and said that in reaching an estimate as to that figure "there should be taken into account all considerations that fairly might be brought forward and reasonably be given substantial weight in such bargaining" and added that elements dependent upon "mere speculation and conjecture" should be condemned as of no weight. (p. 257) In other words, the question is to be determined upon a proper consideration of all relevant facts.

[11] In this connection, and as tending towards considerations of economy, it is interesting to observe that testimony introduced at the reopened hearings showed that upon the abandonment by the carrier of its McAdoo Junction-Tennille Branch, for which the Department had paid the railroad $13,000 per annum, a contract was let to supply the patrons of the branch by "star route" at the rate of $1986 per annum. (R. 100–101)

Such "relevant facts" have been heretofore set out in great deal.

Appellee's theory appears to be that as its revenues from freight, passengers and express fall off, the mail rates should be increased to take care of these deficits. Carried to its logical conclusion, the rates for mail pay would fluctuate, yearly perhaps, dependent upon whether the carrier had a good or bad year in other services. Assuming a road handled nothing but mail, under that theory the computed deficit should be altogether reimbursed it in higher rates of mail pay. Obviously, the Commission could not establish a basis upon such fluctuating foundation.

III. The Commission did not commit any error in its construction of the law as applied to the facts in this case

The alleged error of law is stated in subdivision (6) of paragraph IV of the supplemental bill, which reads:

> (6) The carrying out of said order against petitioners deprives them of their property without due process of law and will take the private property of petitioners for public use without just compensation, in contravention of the Fifth Amendment to the Constitution of the United States.
> (R. 40)

This is a direct allegation of confiscation. We seriously urge the insufficiency of the supplemental

petition as a basis for this charge. To support such a serious charge as confiscation, good pleading requires that pertinent facts should be set forth in the petition. *Lindheimer* v. *Illinois Bell Tel. Co.*, 292 U. S. 151.

In *Louisville & Nashville R. Co.* v. *Garrett*, 231 U. S. 298, a confiscation case, the Supreme Court said:

> * * * it may be supposed that, other conditions being the same, a reduction in rates found to be excessive will cause a loss in revenue; and the question is not simply as to the amount of reduction but whether the rates as fixed would allow a fair return. *The bill does not show the value of property employed, the expenses of operation, or the return which would be permitted under the rates prescribed.* (Id. 315) [Italics supplied.]

To the same effect is the decision in *Aetna Insurance Co.* v. *Hyde*, 275 U. S. 440, 447–448.

Far more positive efforts to show confiscation than the evidence in this case, detailed above, were held insufficient in *Baltimore & Ohio R. R. Co.* v. *United States*, 298 U. S. 349.

It will be recalled that the carrier is contending for an increase of 87.4 percent in its rates, almost double. We do not think it can be successfully contended that, under the circumstances of this case, any such drastic increase would be, in the language of the law, "fair and reasonable."

In *San Diego Co.* v. *Jasper,* 189 U. S. 439, this Court refused to find water rates to be confiscatory, and in the opinion said:

> * * * It hardly can have meant that a system constructed for six thousand acres should have a full return upon its value from five hundred, if those were all that it supplied. At all events we will not be the first to say so. If necessary to avoid that result we should assume that only a proportionate part of the system was actually used and useful within the meaning of the statute. Upon the whole case we are unable to say that the Circuit Court should have declared the rates confiscatory.
>
> (Id. 447)

In the case of *Smyth* v. *Ames,* 169 U. S. 466, 546-547, this Court said:

> * * * The utmost that any corporation operating a public highway can rightfully demand at the hands of the legislature, when exerting its general powers, is that it receive what, under all the circumstances, is such compensation for the use of its property as will be just both to it and to the public.
>
> * * * What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the pubic is entited to demand is that no more be exacted from it for the use of a pubic highway than the services rendered by it are reasonably worth. * * *.

There are many other cases to the same effect; a late one, *Public Service Commission* v. *Utilities Co.*, 289 U. S. 130, after citing numerous cases, states:

> * * * The due process clause of the Fourteenth Amendment safeguards against the taking of private property, or the compelling of its use, for the service of the public without just compensation. * * *. But it does not assure to public utilities the right under all circumstances to have a return upon the value of the property so used. The loss of, or the failure to obtain, patronage, due to competition, does not justify the imposition of charges that are exorbitant and unjust to the public. The clause of the Constitution here invoked does not protect public utilities against such business hazards. * * *
>
> (Id. 135)

IV. The classification of roads over 100 miles in length different from those under 100 miles in length was reasonable

While appellee contended before the Commission that it should be classified more properly with roads less than 100 miles in length rather than with those above that distance because its low traffic density and low earnings per mile of road did not make it comparable with many class I roads receiving the same rates of pay, it did not urge that contention in the court below. Such classifications

have been repeatedly sustained by this Court, provided they are reasonable. *Southern Ry. Co.* v. *Greene,* 216 U. S. 400. In *Chicago, R. I. & P. Ry. Co.* v. *United States,* 284 U. S. 80, 95, a classification [12] by the Commission exempting railroads under 100 miles in length from making reports of per diem accruals to numerous car owners throughout the country was sustained as a reasonable one.

The essential question in this proceeding is whether the rates now being paid the carrier for transporting the mails are fair and reasonable. The Commission decided that question upon the record before it without reference to any classification of railroads.

V. Other contentions answered

(1) Reference to other cases

Appellee has persistently referred to certain expressions in prior mail pay cases to the effect that a cost ascertainment, made upon the method used in those mail pay cases and in the instant case, furnishes a sufficiently reliable basis for conclusions as to the reasonableness of rates of mail pay. The Commission in those cases also examined the data behind the cost ascertainment and received and considered other evidence. References to the character of such other evidence are given in the

[12] It will be recalled that Section 549 of the Railway Mail Pay Act of 1916 (p. 78, appendix) authorizes the Commission to classify carriers and apply general rates to all carriers in the same class.

Commission's report in this proceeding. (R. 44). There was in all those cases much more than the figures showing mail space ratios, amount of unused space, etc.

The Georgia & Florida has argued that the rates of pay accorded other railroads in other mail pay proceedings have no bearing upon the question of the reasonableness of its rates. With this appellants agree. Those proceedings, as well as this, were decided by the Commission solely upon their respective records. The ratios of mail space to total passenger space and the other space relations in other proceedings were derived from data compiled in special studies and have no relevancy here. While the Commission's report in this case cites a number of other proceedings, this was only to show that in such proceedings consideration was given to other factors as well as the results of the cost studies.

(2) Comparisons with other services

The lower court held immaterial what it stated to be "The fact that this railroad lost more money on other services rendered by it or that other railroads transported mail under similar, if not identical conditions, at a profit." (R. 56) The report of Division 5 made some reference to rates paid railroads other than applicant. The report of the entire Commission, however, on rehearing made no such reference, but confined its analysis to the evidence of operations by applicant only. What

the Commission said in the second report was (R. 49):

> The foregoing computations are derived solely from the space and revenue studies. They show that in relation to the other services the department pays a considerably greater amount per car-foot mile of service than the carrier receives from other services rendered in the same trains.

If we look at the figure 0.6573, showing the computed expense per car-foot mile incurred in operating the passenger train service as a whole, without regard to the slightly lower figure showing expense per car-foot mile incurred in operating the mail authorized space plus a part of the unused space, we see that in comparison with the first figure, the Department paid 1.0297 cents for every car-foot mile of service it asked for and received. It is only when that revenue is diluted by spreading it over not only the authorized space but over a large additional amount of space not used by mail, including a share of space hereinbefore shown to have been operated solely for the carrier's convenience, that the revenue per car-foot mile from mail is computed as being less than the expense per car-foot mile. But even on the basis of so diluting the revenue per car-foot mile, we see that the mail revenue per car-foot mile was 5.75 mills as compared with a similar revenue basis from express of 2.36 mills and from passenger proper of

6.94 mills. We further see that the mail revenue of $35,728 for the year 1931 was obtained from 12.96 percent of the total space, including as before the same portion of the unused space, as compared with similar figures of $36,322 for passenger proper from 80.35 percent and $7,593 from express from 6.69 percent.

Obviously comparisons of revenues the carrier receives from other services in the same trains, as to which it is free to initiate its own rates, subject, of course, to requirements of law that such rates shall be just and reasonable, and governed necessarily by competitive conditions, afford a means which the Commission is not prohibited from employing in discharge of its duty to determine what are the fair and reasonable rates for the carriage of the mails. And that is especially true when the Commission does not employ such comparisons as the sole test but merely as a part of the entire fabric of evidence presented to it.

(3) No inconsistency in the Commission's findings

We can quickly show that there was no inconsistent finding of fact by the Commission in the two reports. Its ultimate conclusion in the first report, 192 I. C. C. 779, 783, reads:

> We find that the rates of pay now received by applicant for the transportation of mail, established in *Railway Mail Pay*, 144 I. C. C. 675, for railroads over 100 miles in length,

> are fair and reasonable. The application for increased compensation is denied.
>
> An appropriate order will be entered.
>
> (R. 10)

In the supplemental report, here under review, the Commission found (214 I. C. C. 66, 76):

> Giving consideration to all the computations, the extent and cause of the operation of a substantial portion of the unused space, the fact that a theoretical cost and not actual cost is derived from the methods and plans adopted, and the small amount of mail carried in the authorized units of service, we find upon this augmented record that the present rates for transportation of the mail by the applicant are fair and reasonable.
>
> (R. 50)

These findings are consistent.

If the fact were otherwise, however, it would be without legal significance. *Manufacturers' Ry. Co.* v. *U. S.*, 246 U. S. 457, 482. It is true that, with the lower court's first opinion before it, the Commission felt obliged in its report on further hearing to explain the reasons for its action in considerable detail. This precaution would seem to be well taken in view of the Court's recent decisions holding Commission orders invalid for failure to state reasons fully for its action and to make essential findings. (Cf. *United States* v. *Chicago, M., St. P. & P. Ry. Co.*, 294 U. S. 499).

(4) The court's earlier decision did not establish the law of the case

In its first opinion, the District Court, in annulling the order, directed the Commission to "take such further action in the premises as the law requires" (R. 30), without specifying in any way what the law required. Obeying its mandate, the Commission reopened the proceeding and held further hearings. The decision upon the reopened proceedings, by the entire Commission, based on the augmented record, affirmed the conclusion of Division 5, based on a different record. Now the lower court holds, erroneously, we think, that its earlier decision "unreversed," established the law of the case. (R. 57)

In *Atlanta, B. & C. Ry. Co.* v. *United States,* 28 F. (2d) 885, a three-judge District Court enjoined the enforcement of a Commission order prescribing certain accounting regulations to be followed by the carrier, and directed that the case "stand for further hearing before the Commission." After granting the further hearing the Commission prescribed the same accounting rules the court had theretofore condemned (185 I. C. C. 6). A further suit was filed by the carrier to enjoin the Commission's decision, and the District Court again entered an order granting the relief sought. (37 F. (2d) 401). On appeal, this Court held the decision of the Commission was not an order such as is contemplated by the Urgent Deficiencies Act, (282 U. S. 522) and in that decision overruled the

contention of *res judicata*. The question was again considered by the Commission, and in 201 I. C. C. 645 it entered an order which imposed upon the carrier the identical accounting rule required by its two prior decisions. This time both the District Court and this Court sustained the Commission's order. (See *Atlanta, B. & C. R. Co.* v. *United States*, 296 U. S. 33).

CONCLUSION

The decision of the District Court should be reversed, the injunctions ordered dissolved, and the petition and supplemental petition dismissed.

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OCTOBER 1937.

APPENDIX

The Railway Mail Pay Service Act of July 28, 1916, as amended, Title 39, U. S. Code, Sections 523 et seq., provides:

§ 523. *Carrying on trains without extra charge persons in charge of.* Every railroad company carrying the mails shall carry on any train it operates and without extra charge therefor the persons in charge of the mails and when on duty and traveling to and from duty, and all duly accredited agents and officers of the Post Office Department and the Railway Mail Service and post-office inspectors while traveling on official business, upon the exhibition of their credentials. (July 28, 1916, c. 261, § 1, 39 Stat. 419.)

§ 524. *Conditions of railway service; adjustment of compensation.* The Postmaster General is authorized and directed to adjust the compensation to be paid to railroad companies for the transportation and handling of the mails and furnishing facilities and services in connection therewith upon the conditions and at the rates hereinafter provided. (July 28, 1916, c. 261, § 5, 39 Stat. 425.)

§ 525. *Classes of routes enumerated.* The Postmaster General may state railroad mail routes and authorize mail service thereon of the following four classes, namely: Full railway post-office car service, apartment railway post-office car service, storage-car service, and closed-pouch service. (July 28, 1916, c. 261, § 5, 39 Stat. 425.)

§ 526. *Full railway post-office car service.* Full railway post-office car mail service shall be service by cars forty feet or more in length, constructed, fitted up, and maintained for the distribution of mails on trains. The authorizations of full railway post-office cars shall be for standard-sized cars sixty feet in length, inside measurement, except as hereinafter provided. (July 28, 1916, c. 261, § 5, 39 Stat. 425.)

§ 527. *Apartment railway post-office car service.* Apartment railway post-office car mail service shall be service by apartments less than forty feet in length in cars constructed, fitted up, and maintained for the distribution of mails on trains. Two standard sizes of apartment railway post-office cars may be authorized and paid for, namely, apartments fifteen feet and thirty feet in length, inside measurement, except as hereinafter provided. (July 28, 1916, c. 261, § 5, 39 Stat. 425.)

§ 528. *Storage-car service.* Storage-car mail service shall be service by cars used for the storage and carriage of mails in transit other than by full and apartment railway post-office cars. The authorizations for storage cars shall be for cars sixty feet in length, inside measurement, except as hereinafter provided. Storage space in units of three feet, seven feet, fifteen feet, and thirty feet, both sides of car, may be authorized in baggage cars at not exceeding pro rata of the rates hereinafter named for sixty-foot storage cars. (July 28, 1916, c. 261, § 5, 39 Stat. 425.)

§ 529. *Service by full and apartment railway post-office cars and storage cars.* Service by full and apartment railway post-office cars and storage cars shall include the car-

riage therein of all mail matter, equipment, and supplies for the mail service and the employees of the Postal Service or Post Office Department, as shall be directed by the Postmaster General to be so carried. (July 28, 1916, c. 261, § 5, 39 Stat. 426.)

§ 530. *Closed-pouch service.* Closed-pouch mail service shall be the transportation and handling by railroad employees of mails on trains on which full or apartment railway post-office cars are not authorized, except as hereinbefore provided. The authorizations for closed-pouch service shall be for units of seven feet and three feet in length, both sides of car. (July 28, 1916, c. 261, § 5, 39 Stat. 426.)

§ 531. *Rates of payment for classes of routes.* The rates of payment for the services authorized in accordance with this section shall be as follows, namely:

(a) *Full railway post-office car service.* For full railway post-office car mail service at not exceeding 21 cents for each mile of service by a sixty-foot car.

In addition thereto he may allow not exceeding $4.25 as a combined initial and terminal rate for each one-way trip of a sixty-foot car.

(b) *Apartment railway post-office car service.* For apartment railway post-office car mail service at not exceeding 11 cents for each mile of service by a thirty-foot apartment car and 6 cents for each mile of service by a fifteen-foot apartment car.

In addition thereto he may allow not exceeding $2.75 as a combined initial and terminal rate for each one-way trip of a thirty-foot apartment car and $2 as a combined initial and terminal rate for each one-way trip of a fifteen-foot apartment car.

(c) *Storage-car service.* For storage-car mail service at not exceeding 21 cents for each mile of service by a sixty-foot car.

In addition thereto he may allow not exceeding $4.25 as a combined initial and terminal rate for each one-way trip of a sixty-foot car.

(d) *Closed-pouch service.* For closed-pouch service, at not exceeding 1½ cents for each mile of service when a three-foot unit is authorized, and 3 cents for each mile of service when a seven-foot unit is authorized.

In addition thereto he may allow not exceeding 25 cents as the combined initial and terminal rate for each one-way trip of a three-foot unit of service and 50 cents as a combined initial and terminal rate for each one-way trip of a seven-foot unit of service. (July 28, 1916, c. 261, § 5, 39 Stat. 426.)

§ 532. *Cars of less than standard lengths; cars of excess length.* Where authorizations are made for cars of the standard lengths of sixty, thirty, and fifteen feet, as provided by sections 526 and 527 of this title, and the railroad company is unable to furnish such cars of the length authorized, but furnishes cars of lesser length than those authorized, but which are determined by the department to be sufficient for the service, the Postmaster General may accept the same and pay only for the actual space furnished and used, the compensation to be not exceeding pro rata of that provided by section 531 of this title for the standard length so authorized. The Postmaster General may accept cars and apartments of greater length than those of the standard requested, but no compensation shall be allowed for such excess lengths. (July 28, 1916, c. 261, § 5, 39 Stat. 426.)

§ 533. *Initial and terminal rates to cover certain expenses; varying allowances for full railway post-office cars, apartment railway post-office cars, and storage cars.* The initial and terminal rates provided for in section 531 of this title shall cover expenses of loading and unloading mails, switching, lighting, heating, cleaning mail cars, and all other expenses incidental to station service, and required by the Postmaster General in connection with the mails that are not included in the car-mile rate. The allowance for full railway post-office cars, apartment railway post-office cars, and storage cars may be varied in accordance with the approximate difference in their respective cost of construction and maintenance. (July 28, 1916, c. 261, § 5, 39 Stat. 426.)

§ 534. *Computation of car-miles; railway post-office cars and apartment railway post-office cars.* In computing the car-miles of the full railway post-office cars and apartment railway post-office cars, the maximum space authorized in either direction of a round-trip car run shall be regarded as the space to be computed in both directions, unless otherwise mutually agreed upon. (July 28, 1916, c. 261, § 5, 39 Stat. 427.)

See section 542 of this title.

§ 535. *Same; storage cars.* In computing the car-miles of storage cars, the maximum space authorized in either direction of a round-trip car run shall be regarded as the space to be computed in both directions, unless the car to be used by the company in the return movement, or otherwise mutually agreed upon. (July 28, 1916, c. 261, § 5, 39 Stat. 427.)

See section 542 of this title.

§ 536. *Land-grant roads.* Railroad companies whose railroads were constructed in

whole or in part by a land grant made by Congress, on the condition that the mails should be transported over their roads at such price as Congress should by law direct, shall receive only 80 per centum of the compensation otherwise authorized by this chapter. (July 28, 1916, c. 261, § 5, 39 Stat. 426.)

§ 537. *Style, construction, and maintenance of post-office cars; pay for unsound cars; steel cars.* All cars or parts of cars used for the Railway Mail Service shall be of such construction, style, length, and character, and furnished in such manner as shall be required by the Postmaster General, and shall be constructed, fitted up, maintained, heated, lighted, and cleaned by and at the expense of the railroad companies. No pay shall be allowed for service by any railway post-office car which is not sound in material and construction and which is not equipped with sanitary drinking-water containers and toilet facilities, nor unless such car is regularly and thoroughly cleaned. The Postmaster General shall not approve or allow to be used, or pay for service by, any full railway post-office car not constructed of steel or steel underframe or equally indestructible material; and all full railway post-office cars accepted for this service and contracted for by the railroad companies shall be constructed of steel. (July 28, 1916, c. 261, § 5, 39 Stat. 427.)

§ 538. *Facilities for carrying and handling mails; cars at station; station room, offices for employees.* Railroad companies carrying the mails shall furnish all necessary facilities for caring for and handling them while in their custody. They shall furnish all cars or parts of cars used in the trans-

portation and distribution of the mails, except as herein otherwise provided, and place them in stations before the departure of trains at such times and when required to do so. They shall provide station space and rooms for handling, storing, and transfer of mails in transit, including the separation thereof, by packages for connecting lines, and such distribution of registered mail in transit as may be necessary, and for offices for the employees of the Railway Mail Service engaged in such station work when required by the Postmaster General, in which mail from station boxes may be distributed if it does not require additional space. (July 28, 1916, c. 261, § 5, 39 Stat. 427.)

§ 539. *Selection of trains; carrying on any train.* The Postmaster General shall in all cases decide upon what trains and in what manner the mails shall be conveyed. Every railroad company carrying the mails shall carry on any train it operates, and with due speed, all mailable matter, equipment, and supplies directed to be carried thereon. If any such railroad company shall fail or refuse to transport the mails, equipment, and supplies when required by the Postmaster General on any train or trains it operates, such company shall be fined such reasonable amount as may, in the discretion of the Postmaster General, be deemed proper. (July 28, 1916, c. 261, § 5, 39 Stat. 428.)

§ 540. *Service operated by railroad and steamboats.* The provisions of sections 524 to 568 of this title shall apply to service operated by railroad companies partly by railroad and partly by steamboats. (July 28, 1916, c. 261, § 5, 39 Stat. 428.)

§ 541. *Transportation required in manner, under conditions, and with service prescribed by Postmaster General; compensa-*

tion therefor. All railway common carriers are hereby required to transport such mail matter as may be offered for transportation by the United States in the manner, under the conditions, and with the service prescribed by the Postmaster General and shall be entitled to receive fair and reasonable compensation for such transportation and for the service connected therewith. (July 28, 1916, c. 261, § 5, 39 Stat. 429.)

§ 541a. *Transportation by motor vehicle.* The Postmaster General is hereby authorized, in his discretion, to permit railroad and electric-car companies to provide mail transportation by motor vehicle over highways in lieu of service by train, the compensation for such service to be at a rate not in excess of the rate that would be allowed for similar service by railroad or electric car, payment therefor to be made from the appropriate appropriation for railroad transportation and mail messenger service or electric and cable-car service. (Feb. 15, 1933, c. 75, 47 Stat. 809.)

§ 542. *Interstate Commerce Commission to fix and determine rates and compensation.* The Interstate Commerce Commission is hereby empowered and directed to fix and determine from time to time the fair and reasonable rates and compensation for the transportation of such mail matter by railway common carriers and the service connected therewith, prescribing the method or methods by weight, or space, or both, or otherwise, for ascertaining such rate or compensation, and to publish the same, and orders so made and published shall continue in force until changed by the commission after due notice and hearing. (July 28, 1916, c. 261, § 5, 39 Stat. 429.)

§ 543. *Relation between the railroads as public-service corporations and the Government to be considered.* In fixing and determining the fair and reasonable rates for such service the commission shall consider the relation existing between the railroads as public-service corporations and the Government, and the nature of such service as distinguished, if there be a distinction, from the ordinary transportation business of the railroads. (July 28, 1916, c. 261, § 5, 39 Stat. 429.)

§ 544. *Procedure for ascertaining rates.* The procedure for the ascertainment of said rates and compensation shall be as provided in sections 545 to 554 of this title. (July 28, 1916, c. 261, § 5, 39 Stat. 429.)

§ 545. *Filing of statement by Postmaster General with Interstate Commerce Commission showing transportation required.* The Postmaster General shall file with the commission a statement showing the transportation required of all railway common carriers, including the number, equipment, size, and construction of the cars necessary for the transaction of the business; the character and speed of the trains which are to carry the various kinds of mail; the service, both terminal and en route, which the carriers are to render; and all other information which may be material to the inquiry, but such other information may be filed at any time in the discretion of the commission. (July 28, 1916, c. 261, § 5, 39 Stat. 429.)

§ 546. *Employment of clerical assistance; plan for transportation filed with Interstate Commerce Commission.* The Postmaster General may employ such clerical and other assistance as shall be necessary to carry out

the provisions of sections 524 to 568 of this title, and may rent quarters in Washington, District of Columbia, if necessary, for the clerical force engaged thereon, and pay for the same out of the appropriation for inland transportation by railroad routes. The Postmaster General shall file with the Commission a comprehensive plan for the transportation of the mails on said railways and shall embody therein what he believes to be the reasonable rate or compensation the said railway carriers should receive. (July 28, 1916, c. 261, § 5, 39 Stat. 430.)

§ 547. *Notice by Interstate Commerce Commission to railroads; answer of railroads; hearings.* Thereupon the commission shall give notice of not less than thirty days to each carrier so required to transport mail and render service, and upon a day to be fixed by the commission, not later than thirty days after the expiration of the notice herein required, each of said carriers shall make answer and the commission shall proceed with the hearing as provided by law for other hearings between carriers and shippers or associations. (July 28, 1916, c. 261, § 5, 39 Stat. 430.)

§ 548. *Taking testimony, evidence, penalties, and procedure.* All the provisions of the law for taking testimony, securing evidence, penalties, and procedure are hereby made applicable. (July 28, 1916, c. 261, § 5, 39 Stat. 430.)

§ 549. *Classification of carriers by Interstate Commerce Commission.* For the purpose of determining and fixing rates or compensation hereunder the commission is authorized to make such classification of carriers as may be just and reasonable and, where just and equitable, fix general rates applicable to all carriers in the same classi-

fication. (July 28, 1916, c. 261, § 5, 39 Stat. 430.)

§ 550. *Additional weighing of mails.* Pending such hearings, and the final determination of the question, if the Interstate Commerce Commission shall determine that it is necessary or advisable, in order to carry out the provisions of this chapter, to have additional and more frequent weighing of the mails for statistical purposes, the Postmaster General, upon request of the commission, shall provide therefor in the manner prescribed by law, but such weighing need not be for more than thirty days. (July 28, 1916, c. 261, § 5, 39 Stat. 430.)

§ 551. *Orders of Interstate Commerce Commission establishing rate or compensation.* At the conclusion of the hearing the commission shall establish by order a fair, reasonable rate or compensation to be received, at such stated times as may be named in the order, for the transportation of mail matter and the service connected therewith, and during the continuance of the order the Postmaster General shall pay the carrier from the appropriation for inland transportation by railroad routes such rate or compensation. (July 28, 1916, c. 261, § 5, 39 Stat. 430.)

§ 552. *Percentage of rates allowed land-grant railroads.* The Interstate Commerce Commission shall allow to railroad companies whose railroads were constructed in whole or in part by a land grant made by Congress on condition that the mails should be transported over their roads at such price as Congress should by law direct only 80 per centum of the compensation paid other railroads for transporting the mails and all service by the railroads in connection

therewith. (July 28, 1916, c. 261, § 5, 39 Stat. 430.)

§ 553. *Applications for reexaminations.* Either the Postmaster General or any such carrier may at any time after the lapse of six months from the entry of the order assailed apply for a reexamination, and thereupon substantially similar proceedings shall be had with respect to the rate or rates for service covered by said application, provided said carrier or carriers have an interest therein. (July 28, 1916, c. 261, § 5, 39 Stat. 430.)

§ 554. *Powers conferred on Interstate Commerce Commission.* For the purposes of sections 524 to 568 of this title the Interstate Commerce Commission is hereby vested with all the powers which it is authorized by law to exercise in the investigation and ascertainment of the justness and reasonableness of freight, passenger, and express rates to be paid by private shippers. (July 28, 1916, c. 261, § 5, 39 Stat. 430.)

§ 555. *Conveyance under special arrangements in freight trains; rates.* The provisions of sections 524 to 568 of this title respecting the rates of compensation shall not apply to mails conveyed under special arrangement in freight trains, for which rates not exceeding the usual and just freight rates may be paid, in accordance with the classifications and tariffs approved by the Interstate Commerce Commission. (July 28, 1916, c. 261, § 5, 39 Stat. 428.)

§ 556. *Proof of performance of service.* Railroad companies carrying the mails shall submit, under oath when and in such form as may be required by the Postmaster General, evidence as to the performance of service. (July 28, 1916, c. 261, § 5, 39 Stat. 428.)

§ 557. *Information from Interstate Commerce Commission as to revenues from express companies; rates for transporting matter other than first class.* The Postmaster General shall, from time to time, request information from the Interstate Commerce Commission as to the revenue received by railroad companies from express companies for services rendered in the transportation of express matter, and may, in his discretion, arrange for the transportation of mail matter other than of the first class at rates not exceeding those so ascertained and reported to him, and it shall be the duty of the railroad companies to carry such mail matter at such rates fixed by the Postmaster General. (July 28, 1916, c. 261, § 5, 39 Stat. 428.)

§ 558. *Determination by Interstate Commerce Commission of postal carload or less rate for transportation of fourth-class matter and periodicals.* The Postmaster General may, in his discretion, petition the Interstate Commerce Commission for the determination of a postal carload or less-than-carload rate for transportation of mail matter of the fourth class and periodicals, and may provide for and authorize such transportation, when practicable, at such rates, and it shall be the duty of the railroad companies to provide and perform such service at such rates and on the conditions prescribed by the Postmaster General. (July 28, 1916, c. 261, § 5, 39 Stat. 428.)

§ 559. *Distinguishing between several classes of matter.* The Postmaster General may, in his discretion, distinguish between the several classes of mail matter and provide for less frequent dispatches of mail matter of the third and fourth classes and

periodicals when lower rates for transportation or other economies may be secured thereby without material detriment to the service: (July 28, 1916, c. 261, § 5, 39 Stat. 428.)

§ 560. *Return to mails, postal cards, stamped envelopes and newspaper wrappers.* The Postmaster General may return to the mails, when practicable for the utilization of car space paid for and not needed for the mails, postal cards, stamped envelopes, newspaper wrappers, empty mail bags, furniture, equipment, and other supplies for the Postal Service. (July 28, 1916, c. 261, § 5, 39 Stat. 429.)

§ 561. *Same; empty mail bags.* The Postmaster General, in cases of emergency between October 1 and April 1 of any year, may return to the mails empty mail bags and other equipment theretofore withdrawn therefrom as required by law, and, where such return requires additional authorization of car space, pay for the transportation thereof as provided for herein out of the appropriation for inland transportation by railroad routes. (July 28, 1916, c. 261, § 5, 39 Stat. 429.)

§ 562. *Weighing mail; computations.* The Postmaster General may have the weights of mail taken on railroad mail routes, and computations of the average loads of the several classes of cars and other computations for statistical and administrative purposes made at such times as he may elect, and pay the expense thereof out of the appropriation for inland transportation by railroad routes. (July 28, 1916, c. 261, § 5, 39 Stat. 429.)

§ 563. *Refusal to perform service at rates or methods of compensation provided by law.*

It shall be unlawful for any railroad company to refuse to perform mail service at the rates or methods of compensation provided by law when required by the Postmaster General so to do, and for such offense shall be fined $1,000. Each day of refusal shall constitute a separate offense. (July 28, 1916, c. 261, § 5, 39 Stat. 431.)

§ 564. *New and additional service; reduction or discontinuance of service.* New service and additional service may be authorized at not exceeding the rates herein provided, and service may be reduced or discontinued with pro rata reductions in pay, as the needs of the Postal Service may require. No additional pay shall be allowed for additional service unless specifically authorized by the Postmaster General (July 28, 1916, c. 261, § 5, 39 Stat. 427.)

§ 565. *Special contracts for transportation; reports of.* The Postmaster General is authorized to make special contracts with the railroad companies for the transportation of the mails where in his judgment the conditions warrant the application of higher rates than those herein specified, and make report to Congress of all cases where such special contracts are made and the terms and reasons therefor. (July 28, 1916, c. 261, § 5, 39 Stat. 427.)

§ 566. *Service over property owned by another company; over land-grant companies.* Service over property owned or controlled by another company or a terminal company shall be considered service of the railroad company using such property and not that of the other or terminal company. Service over land-grant road shall be paid for as herein provided. (July 28, 1916, c. 261, § 5, 39 Stat. 427.)

§ 567. *Failure to furnish cars or compartments.* If any railroad company carrying the mails shall fail or refuse to provide cars or apartments in cars for distribution purposes when required by the Postmaster General, or shall fail or refuse to construct, fit up, maintain, heat, light, and clean such cars and provide such appliances for use in case of accident as may be required by the Postmaster General, it shall be fined such reasonable sum as may, in the discretion of the Postmaster General, be deemed proper. (July 28, 1916, c. 261, § 5, 39 Stat. 428.)

§ 568. *Deductions from pay for reduction in or nonperformance of service.* The Postmaster General may make deductions from the pay of railroad companies carrying the mails under the provisions of sections 524 to 568 of this title for reduction in service or infrequency of service where, in his judgment, the importance of the facilities withdrawn or reduced requires it, and impose fines upon them for delinquencies. He may deduct the price of the value of the service in cases where it is not performed, and not exceeding three times its value if the failure be occasioned by the fault of the railroad company. (July 28, 1916, c. 261, § 5, 39 Stat. 428.)

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No. 63

IN THE

Supreme Court of the United States

October Term, 1937

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, Appellants

v.

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD, Appellees

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUHERN DISTRICT OF GEORGIA

BRIEF ON BEHALF OF W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD

OPINIONS BELOW

There have been two opinions of the same specially constituted District Court, neither of which have been reported.

(1) The first opinion and decree filed January 23, 1935 (R. 29) held invalid the first order of the Inter-

state Commerce Commission of May 10, 1933, 192 I. C. C. 779 (R. 5), because the compensation fixed was not in compliance with the duty on the United States to pay "fair and reasonable compensation" and was not "just and equitable," and directed the Commission to take such further action as the law requires in view of the annulment and setting aside of the Commission's said order of May 10, 1933. That decree was not appealed.

(2) The second opinion filed February 23, 1937 (R. 55) held invalid the further order of the Commission of February 4, 1936, 214 I. C. C. 66 (R. 41) and again directed the Commission to take such action as the law requires. It is from that last decree that the present appeal has been taken.

JURISDICTION

The final decree of the District Court from which this appeal is taken was dated February 22, 1937 (R. 58). Petition for appeal was filed April 16, 1937 (R. 304) and allowed the same day (R. 307). The jurisdiction of this Court is founded upon the Urgent Deficiencies Act of October 22, 1913, chap. 32, 38 Stat. 203, 219, 220 (U. S. C., Title 28, Secs. 45 and 47a, Supp. III), and Section 283 of the Judicial Code, as amended by Act of February 13, 1925 (chap. 229, 43 Stat. 936, 938, U. S. C., Title 28, Sec. 345). Probable jurisdiction was noted June 1, 1937.

The appellants now represent in their brief (page 17) that while the point was not urged in the court below because a decision on the merits was, and still is, preferred (*Dayton-Goose Creek Ry. Co.* v. *United States*, 263 U. S. 456, 487, 68. L. ed. 388), they regard it as their duty to call the court's attention to the question of whether a specially-constituted three-judge District Court properly has jurisdiction to review an order of the Interstate Commerce Commission fixing railway mail pay rates.

STATEMENT OF THE CASE

Description of the Carrier: The Georgia & Florida Railroad, which receivers are struggling to preserve, was described by the Commission in another proceeding on May 5, 1932 as follows:

> "The Georgia & Florida operates, as has been indicated, between a point in South Carolina and a point in Florida, traversing a large section of eastern Georgia. While it has always been a weak line, its abandonment would no doubt be a very serious matter for many shippers and communities that are dependent upon its service. The evidence before us, however, justifies doubt as to whether this road can survive, unless conditions speedily improve." *Georgia & Florida Railroad Receivers Reconstruction Loan,* 184 I. C. C. 332, 340. (Exhibit 766, R. 289).

Railway Mail Pay Legislation: The evolution of legislation on mail pay and its present status is best stated in the words of this Court in *United States* v. *New York Central Railroad Co.,* 279 U. S. 73, 79, 73 L. ed. 619, as follows:

> "The question is one of construction which requires consideration not of a few words only, but of the whole act of Congress concerned. This is the Act of July 28, 1916, chap. 261, sec. 5, 39 Stat. at L. 412, 425-431 (U. S. C. Title 39, chap. 15, where the long section 5 is broken up into smaller sections), which made a great change in the relations between the railroads and the government. Before that time the carriage of the mails by the railroads had been regarded as voluntary (*New York, N. H. & H. R. R. Co.* v. *United States,* 251

U. S. 123, 127, 64 L. ed. 182, 183, 40 Sup. Ct. Rep. 67); now the service is required (U. S. C. Title 39, sec. 541); refusal is punished by a fine of $1,000 a day (U. S. C. Title 39, sec. 563), and the nature of the services to be rendered is described by the statute in great detail. *Naturally, to save its constitutionality there is coupled with the requirement to transport a provision that the railroads shall receive reasonable compensation.*" (Italics supplied.)

Description of Railway Mail Service: Railway mail service required by the Post Office Department is of two entirely distinct types but it is all measured and paid for upon a space basis. The two types are (a) railway post offices with clerks, and (b) storage and closed pouch without clerks:

(a) *Railway Postoffices:* This type of service consists of furnishing space on passenger trains for a travelling postoffice equipped with bins, boxes and racks for the receipt and delivery of mail and its assorting or distribution enroute by one or more mail clerks, and some mail storage space. The compensation includes the transportation of the clerk or clerks operating the travelling postoffice, and the transportation of the mail matter, and the furnishing of heat, light and janitor service.

Where the space requisitioned is less than that of a full sixty-foot car it is known as apartment car service and is furnished in combination cars, in the other end of which the railroad is free to handle baggage, express and passengers. For a 15-foot postoffice in a combination car the rate of pay prescribed for all railroads over

100 miles in length, *as a class,* is 14.5 cents per mile of transportation (R. 6). For railroads less than 100 miles but more than 50 miles in length, *as a class,* the rate prescribed is 27 cents per mile, and for railroads less than 50 miles in length, *as a class,* the rate prescribed is 34 cents per mile (144 I. C. C. 675, 718). There are some exceptions where the rates are higher for some railroads than for the others in the same class. (See table on page 93 and compare *Alabama, Tennessee & Northern Railroad Company,* 112 I. C. C. 151, and *Denver & Salt Lake Railway Company,* 151 I. C. C. 734.) (Appellants' brief, page 9.)

The railway post office type of service on the Georgia & Florida is in 15-foot units only and the rate prescribed is only 14.5 cents per mile, "based upon findings as to the average cost of transporting the mails on all railroads throughout the United States" over 100 miles in length. (Appellants' brief, page 8, 31.)

During a test period selected for cost determination 95 per cent of the railway mail service rendered by the Georgia & Florida was of this travelling postoffice type (R. 9, Appellants' brief, page 31).

(b) *Closed Pouch Service:* This type of service consists of the handling of locked sacks of mail and packages of parcel post, which are received and handled, that is, taken on board and put off, by railroad employees at the various stations through which trains with that type of service are operated. The very minimum amount of that type of service which the Post Office Department can requisition of a carrier as fixed by the Commission is the equivalent of the space of three

linear feet of car length to a height of six feet. The mail matter handled is not confined within three linear feet, but for convenience in practical handling it is usually spread out in station order over a much larger area of the car floor. The Commission has found by actual tests that an average of 56 sacks of mail can be stored in three linear feet of space, and so has said that the maximum authorization is 56 sacks or an equivalent in packages, but the actual volume may be anything less than that maximum. (Appellants' brief, page 41.) The rate prescribed for all lines more than 100 miles in length is only 4.5 cents per mile (R. 212). That is the rate ordered for this carrier.

Partly because of the difference between the space units requisitioned and the larger actual floor area occupied, it has always been agreed in every cost study between the Post Office Department and the carriers, with the Commission's approval, to take the amount of space authorized by the Department as being the equivalent of the linear feet of car space used, hence in a test period it is only necessary to actually measure the space occupied by the other classes of passenger service, viz., passengers, baggage, and express. (Appellants' brief, pages 32. 33.)

On the Georgia & Florida it is only the three-foot minimum units which are authorized, and during the representative test period this type of service constituted only 5 per cent of the total mail service rendered.

The Standard Method for Determining Mail Pay Rates: A cost study is the method followed and approved in all mail pay cases for the ascertainment of

the proportionate part of the expense of railway operation which is properly chargeable to the mail service, and also the proportionate part of railway property used for transportation of the mails. Its theory, in brief, is to first make a separation between freight and passenger services, and then a further separation of the different passenger services, so that regardless of whether other classes of service make or lose money on their operation, a separate determination can be made of the proper proportion of the operating expenses, and of the property used, which is chargeable to the mails. (Appellants' brief, page 31.) This makes it possible to arrive at a practical approximation of the rates of mail pay necessary to compensate the carrier for the cost of rendering the service and for the use of that part of the railway's property devoted to that service.

The Test Period: As a basis for the cost study, a test period of 28 days (1/13th of a year) is agreed upon by the Post Office Department and the carrier as being representative (R. 6, 96). Then each day in that test period, under the general supervision of a Post Office Department representative, measurements are made, based upon long established methods to determine just what part of the daily railway service is rendered in connection with transporting the mails. The space data thus obtained is then applied to operating expenses for the year to determine the cost of carrying the mail (R. 6).

The Rules for the Separation of Expenses: The rules prescribed by the Commission governing the separation of operating expenses between freight and passenger

services are followed (R. 6). These rules were issued on January 1, 1920, pursuant to authority of Section 20 of the Interstate Commerce Act, and the results of the apportionment reached under those rules must be shown in detail for the various primary operating expense accounts in the annual report of each carrier to the Interstate Commerce Commission (R. 258). Failure to carry out those rules would subject the carrier or individual responsible to fine provided in that section. Under those rules expenses of the passenger service are directly allocated as far as possible to passenger service proper (including baggage and miscellaneous), express and mail. The remaining expenses common to all three services, particularly in combination cars, are apportioned upon the space ratios. (Appellants' brief, page 31.)

Disposition of Unused Space: The unoccupied space in combination cars is distributed among the various kinds of passenger service in accordance with what is known as Plan 2 (R. 6, R. 292). This plan has been used and approved in all mail pay cases and, in short, provides that all cars "employed exclusively for one service are referred to as full cars, whether loaded or not, and the entire operation of each is allocated to the service to which it is assigned. The space in combination and mixed cars is allocated to each service according to the space used, except that space authorized for mail is regarded as space used. The unused space in such combination or mixed cars, and that unused space only, is apportioned in proportion to the space used. (R. 6, 7, Appellants' brief, page 32.)

The Rates Fixed under Present Law—First General Mail Pay Case: The present basis for space measure-

ment and allocation was first established by decision of the Interstate Commerce Commission in 1919 upon a nation-wide cost study made in 1916 in which the statistics for all lines reporting were combined, and a system of uniform rates based upon *averages* was established for all lines over 100 miles, and for separately operated lines less than 100 miles higher rates were established on an arbitrary percentage differential (56 I. C. C. 1).

Second General Mail Pay Case: In a second general case, in which the Georgia & Florida and a large number of short lines contended for separately established rates, (144 I. C. C. 675, 702) the Commission in 1928, after another nationwide cost study made in 1925, retained the system of average rates, and roads over 100 miles *as a class,* with an indicated average need for an increase of 26.61 per cent, were given an increase of 15 per cent, and roads under 100 miles *as a class,* with an indicated average need for an increase of 91 per cent, were given an increase of 80 per cent (see table with citations on page 93), (144 I. C. C. 675).

In that case the separate cost study for the Georgia & Florida which then showed an indicated need for an increase of 78 per cent was ignored and the weak Georgia & Florida was classified with all roads over 100 miles, including such great systems as the Pennsylvania Railroad and the Union Pacific.

This is frankly admitted by appellants at page 8 of their brief where they say:

> "These increased rates for carrying the mails, which are the present rates received by the Georgia

& Florida Railroad, were based upon *findings as to the average* cost of transporting the mails on all railroads throughout the United States, other than electric urban and interurban railroads." (Italics supplied.)

The Relief Prescribed by the Statute: The Railway Mail Act provides not alone for the fixing of mail pay rates by classes, but where such rates are non-compensatory, for separate ascertainments, the language being that—

> "Either the Postmaster General or any such carrier may at any time after the lapse of six months from the entry of the order assailed apply for a reexamination, and thereupon substantially similar proceedings shall be had with respect to the rate or rates for service covered by said application, provided said carrier or carriers have an interest therein. (July 28, 1916, chap. 261, section 5, 39 Stat. 430.)"

The said "similar proceedings" include, of course, a hearing, and in *Baltimore & Ohio R. Co. v. United States*, 264 U. S. 258, 274, 68 L. ed. 675, this Court said:

> "The provision for a hearing implies both the privilege of introducing evidence and the *duty of deciding in accordance with it.* To refuse to consider evidence introduced, or to make an essential finding without supporting evidence, is arbitrary action." (Italics supplied.)

This Case: Continuing to be dissatisfied with the results of a classification whereby the Georgia & Florida Railroad with a gross railway operating rev-

enue of only $2,929.00 per mile was receiving only 4.5 cents per mile for 3-foot closed pouch authorizations and 14.5 cents per mile for 15-foot apartment authorizations (R. 212), which are exactly the same rates of mail pay as prescribed for a class of roads whose gross railway revenues averaged $21,788.00 per mile (Exhibit 748, R. 254), and in reliance upon the constitutional right to receive reasonable compensation, as indicated by this court in the *New York Central case, supra,* the Receivers began the present proceedings by a petition (R. 21) to the Commission on April 1, 1931 for an independent re-examination of its rates of pay.

The First Hearing: Substantially all of the evidence in the first hearing consisted of the introduction of and testimony with respect to a cost study made on the customary standard basis (R. 6), upon which, after consenting to certain adjustments claimed by the Post Office Department, the parties were agreed (R. 96) and which the Commission found showed an indicated need for an increase of 87.40 per cent in the rates of pay for this carrier (R. 8).

The Commission's First Decision: The Commission in its first report made no attempt to criticise the cost study but accepted it as at least "an approximation to be given such weight as seems proper in view of all the *circumstances.*" (R. 9.) (Italics supplied.)

The Final Factors in the Approximation: The final factors showed by the exhibits of the Post Office Department, concurred in by the carrier, and as reported by the Commission were as follows:

(1) *The Mail Revenue:* The mail revenue at the existing rates was only $35,728 per annum (R. 7).

(2) *The Proportion of Operating Expenses:* The proportion of the expenses of operation allocated and apportioned to the mail service was $40,673 per annum (R. 7). This proportion of the expense of operating the mail service was $4,945 per annum greater than the mail revenue per annum (R. 7).

(3) *The Proportion of Property Investment:* The proportion of the carrier's investment in road and equipment allocated and apportioned to mail was $457,082. A 5.75 per cent return on that sum was $26,282 per annum (R. 8).

(4) *The Result:* Adding together the deficit between the mail revenue per annum and the operating expense per annum for handling the mails of $4,945 to the 5.75 per cent return on $457,082 of property used in handling the mails, the additional amount needed to provide just compensation is $31,227, an increase of 87.40 per cent.

The "Circumstances" on which the Commission Relied for Disregarding the Cost Study: In its conclusions (R. 9) the Commission recited only the following "circumstances" on which it purported to rely when it gave no weight to the cost study: (a) that the mail with relation to other services in passenger train operations (all being conducted at a loss) bore a fair share of the expenses of operation and contributed *relatively* more than the other services for the space furnished; (b) that the carrier receives the same rates as are re-

ceived by other roads (of the *class* over 100 miles in length) for the same kind of service (c) that while many of the other roads are very much larger and have greater traffic and lower unit operating costs, nevertheless there are others in the same (unfortunate) situation as this carrier in respect of passenger train operations, and the data submitted failed to justify giving this carrier rates higher than those paid such other carriers for like service. Therefore on the recitation of those "circumstances" the Commission wholly rejected the proof of need for an increase of 87.40 per cent and concluded:

> "That the rates of pay now received by applicant for the transportation of mail, established in *Railway Mail Pay*, 144 I. C. C. 675, for railroads over 100 miles in length, are fair and reasonable." (R. 10.)

The First Bill of Complaint: The weight of the cost study being wholly unimpaired by any of these extraneous "circumstances" the appellees sought from the specially-constituted three-judge Court for the Southern District of Georgia, an injunction to set aside the Commission's order, on the ground that it was contrary to the evidence and was confiscatory (R. 1).

The Court's First Decision: After a hearing in which all the evidence which had been before the Commission was received, and after argument, the court held, among other things, that:

> (1) "No other facts were established or sought to be established than those set forth in such order of said Commission, a copy of which is

annexed to petitioners' complaint, and it is therefore considered unnecessary and redundant to restate 'Findings of Fact' as provided by Equity Rule 70½. *The challenge is to the conclusion drawn from undisputed facts.*" (R. 29.) Italics supplied.)

(2) "The facts developed in the 'cost study' fully set forth in such order of the Commission were ascertained by the application of rules prescribed by the Commission." (R. 29.)

(3) "Such 'cost study' discloses among other facts that 'There was (1) a deficit in net railway operating income from mail of $4,945.00 based upon 1931 operations'." (R. 29.)

(4) "It further disclosed that as regards revenue: 'The distribution of expense upon the space ratios shows that the ratio for mail service was 102.79' or that for every dollar applicants received for transporting mails they expended one dollar and 2.79 cents." (R. 29.)

(5) "There is no attack upon the efficiency of the operation of this railroad. There is no charge of extravagance." (R. 30.)

(6) "The fact that this railroad lost more money on other services rendered by it or that other railroads transported mail under similar, if not identical conditions, at a profit or that this railroad belonged in a certain classification established by such Commission, known as Class I railroads and that therefore it should be in accord with other railroads of such Class as to compensation as to mail, do not refute or impair the fact that the compensation allowed this railroad for the trans-

portation of mail does not equal the cost of so doing." (R. 30.)

The court's conclusion on the undisputed facts was that:

> (7) "The bald fact remains that this railroad is required in order to escape severe punishment (39 U. S. C. A., Section 563) to transport mail at a compensation fixed by such Commission and that such compensation does not pay the actual cost of service. This compensation is not in compliance with the duty on the United States to pay 'fair and reasonable compensation' and is not 'just and equitable'." (R. 30.)

The court decreed that:

> (8) "Said Commission shall take such further action in the premises as the law requires in view of the annulment and setting aside of the said order of May 10, 1933. Inasmuch as this court has not the authority to fix the compensation we do not deal with the question of what per cent of return on the investment, if any, would be required to make the compensation fair and reasonable." (R. 30.)

No Appeal: No appeal was taken from that decision of the lower court, and it stands unreversed (R. 55.)

The Commission's Second Decision: Instead of complying with the decree of the court to take such action as the law required to meet the duty on the United States to pay fair and reasonable compensation (R.

30) (i. e., to fix rates based on the undisputed evidence which would produce that result), the Commission re-opened the proceedings for another hearing at which the previous evidence stood uncontradicted, and in the absence of any substantial new evidence the Commission wrote another report "in the nature of a defensive thesis" explaining and in support of a reiteration of its first decision (R. 55).

The Court's Second Decision: The carrier then sought a second injunction and the lower court again enjoined the Commission (R. 55), and of the nature of the Commission's second decision it said (R. 58):

> "Lengthily are theories and possibilities advanced to establish that a different result might be reached if different methods were employed 'to ascertain and compute the proportions of operating expense and the separations into expenses for freight service and passenger service respectively,' but there is no justification submitted for abandoning the method employed in making the first report, which was unchallenged as to accuracy and was admitted to have been apportioned 'in accordance with the formulas prescribed for Class I roads for the separation of expenses between freight and passenger service.'
>
> "The second report not only does not contradict this but reaffirms it in this language: 'The methods are the same as those prescribed in our rules governing separation of such expenses on large steam railroads'." (R. 58.)

The Court's View of the Merits: Among other things said by the court in its second decision were:

(1) "Neither applicant nor this Court entertains the view that the hypothetical cost is 'necessarily conclusive.' It is merely the fairest method that has been devised. If 'actual cost' as to each item be required applicants would be helpless and the Commission would be reduced to guessing. What elements may have been persuasive 'In other mail proceedings' are not necessarily to be considered here, and should not be in the absence of supporting testimony and some indication as to what weight was given each element. Further, there is no testimony here as to 'unused space reported as operated.' There is included payment for unused space not operated, of which more later. There is nothing to justify disregard of the fact used in the first report that 'space authorized for mail is regarded as space used.' (R. 57.)

(2) *"The law as established in this case by the previous decision,* unreversed, makes inapplicable 'comparisons with compensation received from other services in passenger train cars;' 'comparisons with freight rates;' and 'comparisons per car-mile and per car-foot mile of the computed cost of mail service and the revenue from authorized mail service with the computed cost of corresponding units in passenger-train service as a whole.' (R. 57.)

"There is no criticism of 'the character of the service performed in connection with transporting the mail.' (R. 57.)

(3) "Further argument of the Commission, as we understand it, is that because 30 feet instead of 15 feet is partitioned off for mail this adds 15 feet to the unused space for which the Post Office Department pays a part. We do not so understand the testimony. Our understanding is that

the unused space is the same wherever the partition be placed. "* * * an unnecessarily large car is used and this adds to the portion paid by the mail for unused space and that if 15 feet were eliminated from the car mail space ratio would be reduced to 10.79 per cent, resulting in a profit to applicant from mail of $1,711. (R. 57, 58.)

* * * * *

(4) "We find nothing that warrants any change in our conclusions as to the legality of the order now before us from our previous conclusion as to the same rates except the fact, stated by implication, that the use of a mixed car shorter by 15 feet would result in a profit from mail revenue of $1,711 annually. The report discloses 'The total mail service investment thus derived was $457,-082.' This return is approximately .0037 per cent. This is not 'fair and reasonable'." (R. 58.)

The Court's Second Decree: The decree of the court in its second decision was that:

(1) "That said order of the Interstate Commerce Commission of February 4, 1936, is and has at all times been unlawful and that said order be set aside and annulled.

(2) "Said Commission shall take such further action in the premises as the law requires in view of the annulment and setting aside of the said order of February 4, 1936. This 22d day of February 1937." (R. 58.)

The appeal here is from that decision.

THE QUESTIONS PRESENTED

The appellants' assignments of alleged errors do not include all of the questions raised in their brief, and the appellees submit the following as a more logical arrangement of the questions which are presented in this case:

A. On the Jurisdiction of the Specially-Constituted Three-Judge Court:

This relates to an additional point first raised on page 17 of appellants' brief.

B. On the Extent of the Jurisdiction of the Court on the Question of Just Compensation:

This relates to appelants' assignment of error 3 (page 17).

C. On the Proposition that the Order of the Commission was Unlawful and Contrary to the Evidence:

This relates to appellants' assignment of errors 1, 2 and 4 (page 17).

D. On the Alleged Insufficiency of the Bill of Complaint:

This relates to an additional point first raised on page 58 of appellants' brief.

E. On the Law of the Case as Established by the Lower Court's First Decision:

This relates to appellants' assignment of error 5 (page 17).

SUMMARY OF ARGUMENT

The argument herein will follow the same order outlined under "The Questions Presented," and will support the following propositions:

(A). That the order of the Interstate Commerce Commission fixing rates for carrying the mails *by railway common carriers engaged in interstate commerce* is reviewable by the specially constituted three-judge District Court under the Urgent Deficiencies Act (38 Stat. 219: U.S.C. Title 28, Sections 41, 43, 44) and that the parties are apparently agreed in their desire for a decision on the merits, as in *Dayton-Goose Creek Ry. Co.* v. *United States,* 263 U. S. 456. (See footnote on page 17 of appellants' brief.)

(B). That the matter of rates of railway mail pay fixing compensation for carrying the mails is a judicial question reviewable by the Courts. (*Baltimore & Ohio Railroad Co.* v. *United States,* 298 U. S. 349, 80 L. ed. 1209.)

(C). That the decision of the Commission was arbitrary and contrary to the evidence and in violation of the due process clause of the Federal Constitution; that the rates prescribed for the Georgia & Florida are confiscatory, that an increase of 87.40 per cent is necessary in order to comply with the duty of the United States to pay just compensation; and that the fact that rates of mail pay have heretofore been fixed for a large group of carriers as a class based on average costs of all lines over 100 miles in length does not deprive the Georgia & Florida of its statutory

and constitutional rights to have rates determined upon its own facts.

(D). That no question was raised in the lower court upon any alleged insufficiency in the bill of complaint; and that on the face of the bill of complaint itself, and also by copies of the Commission's reports and findings of facts which were attached thereto, are sufficiently shown all the facts which needed to be pleaded.

(E). That the law as established in this case by the previous decision, unreversed, makes inapplicable "comparisons with compensation received from other services in passenger train cars;" "comparisons with freight rates;" and "comparisons per car-mile and per car-foot mile of the computed cost of mail service and the revenue from authorized mail service with the computed cost of corresponding units in passenger-train service as a whole." (R. 57.)

(F). That the suggestions (a) that if the rates are increased the Post Office Department might not use the service is refuted by the record and does not take from the weight of the cost study; and (b) that the "Commission's apprehension that its real authority" might be affected is unwarranted and is no sound reason for disregarding the evidence.

ARGUMENT

A. On the Jurisdiction of the Specially-Constituted Three-Judge District Court.

It is a fundamental rule that the government may not be sued without its consent, but it has consented to be sued in the Federal District Courts "to enjoin, set aside, annul or suspend in whole or in part *any* order of the Interstate Commerce Commission." (Urgent Deficiencies Act, 38 Stat. 219; U. S. C., Title 28, Sections 41, 43 and 44.) The consent is not limited to orders of the Commission entered in the performance of its duties under the Interstate Commerce Act. (41 Stat. 499, U. S. C., Title 49, Section 27.)

This Court in *United States* v. *New York Central Railroad Company*, 279 U. S. 73, 79, 73 L. ed. 619, had under consideration an order of the Interstate Commerce Commission fixing rates of mail pay for the future and retroactive to the date of filing of the application with the Interstate Commerce Commission. This Court, after referring to the requirement of the Railway Mail Act (U. S. C. Title 39, Chapter 15), which required that common carriers by railroad carry the mails when requested to do so by the Postmaster General, under penalty of a fine of $1,000 a day upon refusal, said:

> "Naturally, to save its constitutionality there is coupled with the requirement to transport a provision that the railroads shall receive reasonable compensation. * * * The government admits, as it must, that reasonable compensation for such required services is a constitutional right. So far

as the government has waived its immunity from suit, this right may be enforced, in the absence of other remedies, *not only by injunction against further interference with it,* but by an action to recover compensation already due. Accordingly the statute provides for application from time to time to the Interstate Commerce Commission to establish by order a fair, reasonable rate or compensation to be paid at stated times. U. S. C. Title 39, Sections 542, 551, 554." (Italics supplied.)

In that case this Court upheld the right of the railroads to collect by suit in the Court of Claims the retroactive mail pay at the rates established in the Commission's order. It is to be noted that the language of this Court is to the effect that the right to fair compensation may be enforced, first, by injunction or, second, by an action to recover compensation already due.

Congress in enacting the Railway Mail Act placed the jurisdiction for first determining a fair, reasonable rate of compensation to be paid for the carrying of the mail in the Interstate Commerce Commission, and the Court of Claims, in a suit brought by a railroad to collect compensation for carrying the mail without having previously obtained an order from the Interstate Commerce Commission, has said that in the absence of such order it has no jurisdiction to entertain a suit to collect pay for carrying the mail.

In the case of *Pere Marquette Ry. Co.* v. *United States,* 59 Ct. Cl. 538, the Court of Claims refused to take jurisdiction of such a suit, and in refusing said:

"The Act of July 28, 1916, clearly intended that all questions of the compensation to be paid railroad companies for carrying the mails should be determined by the Interstate Commerce Commission. The Commission having acted within the scope of its authority, having fixed the reasonable compensation to which the plaintiff is entitled, this court cannot review the action of the Commission and undertake to fix a different compensation from that arrived at by the Commission."

Compare *Denver & Rio Grande R. R. Co.* v. *United States*, 50 Ct. Cl. 382.

The refusal of the Court of Claims to entertain suits for additional mail pay in cases where the Interstate Commerce Commission has failed or refused to grant increases, leaves to the carrier, which believes that an order of the Commission is invalid for failure to allow a non-confiscatory rate, only the remedy of injunction.

The right of injunction must lie, if anywhere, in the District Courts of the United States, and as stated in appellants' brief the history of the District Court's jurisdiction in enjoining and setting aside orders of the Interstate Commerce Commission is outlined in *Procter & Gamble Company* v. *United States*, 225 U. S. 282, 302, 56 L. ed. 1091. It is apparent from that decision that all of the jurisdiction then existing in the Circuit Courts of the United States to enforce or enjoin any order of the Interstate Commerce Commission was transferred to the Commerce Court upon its creation by the Act of June 18, 1910 (36 Stat. at L. 539, Chapter 309). The language of that Act is:

"Sec. 207. The commerce court shall have the jurisdiction possessed by circuit courts of the United States and the judges thereof immediately prior to June eighteenth, nineteen hundred and ten, over all cases of the following kinds:

"First. All cases for the enforcement, otherwise than by adjudication and collection of a forfeiture or penalty, or by infliction of criminal punishment, of any order of the Interstate Commerce Commission other than for the payment of money.

"Second. Cases brought to enjoin, set aside, annul, or suspend, in whole or in part any order of the Interstate Commerce Commission. * * * *"

This Court had before it for review in that case a proceeding arising under the provisions of the Interstate Commerce Act, and consequently spoke of orders of the Interstate Commerce Commission rendered in connection with the Interstate Commerce Act, but not in a way to limit the jurisdiction to orders in cases arising only under that Act. Neither does the language of this Court in *United States* v. *Los Angeles & Salt Lake Railroad Company*, 273 U. S. 299, 71 L. ed. 655, so limit the jurisdiction. In the *Los Angeles & Salt Lake Railroad Company case* this Court said that an order of the Interstate Commerce Commission purporting to determine the final value of a railroad company's property was not such an order as could be the subject of judicial review in the manner set out in the Urgent Deficiencies Act. The Court said:

"The so-called order here complained of is one which does not command the carrier to do, or to refrain from doing, anything; which does not grant or withhold any authority, privilege or license;

which does not extend or abridge any power or facility; which does not subject the carrier to any liability, civil or criminal; which does not change the carrier's existing or future status or condition; which does not determine any right or obligation. This so-called order is merely the formal record of conclusions reached after a study of data collected in the course of extensive research conducted by the Commisison, through its employees. It is the exercise solely of the function of investigation. Compare *Smith* v. *Interstate Commerce Commission,* 245 U. S. 33, 62 L. ed. 135, 38 Sup. Ct. Rep. 30. Moreover, the investigation made was not a step in a pending proceeding in which an order of the character of those held to be judicially reviewable could be entered later. It was merely preparation for possible action in some proceeding which may be instituted in the future—preparation deemed by Congress necessary to enable the Commission to perform adequately its duties, if and when occasion for action shall arise. The final report may, of course, become a basis for action by the Commission, as it may become a basis for action by Congress or by the legislature or an administrative board of a state. But so may any report of an investigation, whether made by a committee of Congress or by the Commission pursuant to a resolution of Congress or of either branch thereof."

The statement should also be noted in the *Los Angeles & Salt Lake case* that during the first nineteen years of the Interstate Commerce Commission's existence no order was reviewable by the courts. The Court points out that "the statutory jurisdiction to enjoin and set aside an order was granted in 1906, because then, for the first time, the rate-making power was conferred upon the Commission, and then disobedience

of its orders was first made punishable." (Hepburn Act, June 29, 1906, chap. 3391, sections 2-7, 34 Stat. at L. 584, 586-595; U. S. Code Title 49, chap. 2.)

The decision of this Court in *Great Northern Railway* v. *United States,* 277 U. S. 172, 183, 72 L. ed. 838, is not conclusive in this case because the Court specifically found that *a certificate* issued by the Commission under the so-called guaranty provisions of the Transportation Act of 1920, Sections 209 and 212, was not an order of the Commission, but was only a recital of a finding of fact addressed only to the Secretary of the Treasury. Since that case, however, this Court has had occasion to review the decision of a specially-constituted three-judge District Court involving an order of the Commission which had no connection with the Interstate Commerce Act, namely, the case of *United States* v. *Baltimore & Ohio Railroad Company et al.,* 293 U. S. 454, 465, 79 L. ed. 587. That case involved an order of the Interstate Commerce Commission under the so-called Boiler Inspection Act, entered on January 5, 1933, requiring the railroads to equip "with a suitable type of power reverse gear" all steam locomotives built on or after April 1, 1933, and to similarly equip existing locomotives when they first received major repairs. The Boiler Inspection Act which was involved in that case (43 Stat. 659, U. S. Code Title 45, chap. 1, sections 22 to 34), was not an amendment to the Interstate Commerce Act, but was entitled "An Act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto." Nor was there any reference

in the Act as originally enacted in 1911, or in the amendment of June 7, 1924, to any provision whatever for court review of the Commission's action thereunder. In fact, the Commission's jurisdiction to make any order compelling the installation of specific equipment upon locomotives was even questioned by the carriers in the lower court (*Baltimore & Ohio Railroad Company et al.* v. *United States,* 5 Fed. Sup. 929). However, the authority of the Interstate Commerce Commission to make the order there under review was held by this Court, in the absence of specific authority in the Act, to be necessarily implied from the various provisions of the Act. The specially-constituted statutory three-judge District Court convened in accordance with the terms of the Urgent Deficiencies Act, refused the injunction prayed for, and this Court affirmed the action of that Court on the merits, without any hint or suggestion that although the Boiler Inspection Act was no part of the Interstate Commerce Act, the special statutory method provided for review of "any order of the Interstate Commerce Commission" was not available in that case.

The contention of the appellants that railroads are not now acting as common carriers in the transportation of the mails does not appear to be sustained by the decisions cited. The leading case cited is that of *Atchison, Topeka & Santa Fe Railway Company* v. *United States,* 225 U. S. 640, 650, 56 L. ed. 1236. That case was decided, however, in the October Term of 1911, at a time when the relation between the Post Office Department and the railroads was entirely different than as it existed after the enactment of the Railway Mail Act in 1916, for the railroads were then carrying

the mail as contract carriers under voluntary contracts separately entered into.

The reverse would seem to be true today. The railroads in transporting mail are required to do so because they are common carriers, and the regulation of the rates of common carriers for transporting the mails is a regulation of interstate commerce. The Railway Mail Act is fully of phraseology that "all common carriers are hereby required to transport such mail matter as may be offered for transportation by the United States," "the Commission shall proceed with the hearings as provided by law for *other hearings between carriers and shippers* or associations," "the Commission is authorized to make such classification of carriers," "for the purpose of Sections 524 to 586 of this title the Interstate Commerce Commission is hereby vested with all the powers which it is authorized by law to exercise in the investigation and ascertainment of the justness and reasonableness of freight, passenger and express rates to be paid by private shippers."

It should be noted that in Section 547 the law uses the phrase "the Commission shall proceed with the hearing as provided by law for other hearings between carriers and shippers or associations." The language quoted would indicate that Congress considered the Post Office Department in offering mail for transportation in interstate commerce as a public shipper over a common carrier railroad as distinguished from private shippers.

Attention is also called to Sections 557 and 558 of the Railway Mail Act providing that mail matter other

than first-class may be transported at not more than the charges for express matter, and that the transportation of mail matter of the fourth-class and periodicals may be authorized at the postal carload or less-than-carload rate, apparently at rates similar to carload and less-than-carload freight rates.

Consideration of the history of the Postal Service of this country would also lead to the conclusion that today a railroad in transporting mail matter, especially those classes of mail matter other than first-class, is doing so as a common carrier in interstate commerce. This Court, in the case of *In the Matter of A. Orlando Jackson,* 96 U. S. 727, went into the history of the powers of Congress under the authority of the Constitution "to establish post offices and post roads." It spoke of articles which legitimately constitute mail matter, in the sense in which those terms were used when the Constitution was adopted—consisting of letters, of newspapers and pamphlets. Since the time when the Constitution was written, the postal service has been greatly expanded until today it includes merchandise (including farm and factory products), and all other mailable matter not included in the first, second, or third classes, and under postoffice regulations in some instances weighing as much as 200 pounds. There appears to be no fixed limit beyond which the Federal Government cannot go in including products of the farm or factory in the mails. If Congress sought to do so, they could probably include articles as large as automobiles in carload lots, or almost any other manufactured product. One could hardly say, when the Post Office Department will handle articles like typewriters, crates of eggs, and almost every other article imaginable, except

such as are quickly perishable or inherently dangerous, that it is not in the express business in competition with the carrying of express by the railroad companies, and that such competitive handling of parcel post when transported by the railroads under compulsion, rather than by voluntary contract, at rates determined to be reasonable by the Interstate Commerce Commission, is not transportation by the railroads in their common carrier capacity.

Thus from a sudy of the decisions it is evident that the lower court as constituted in this case had full jurisdiction to enjoin the carrying out of the Commission's orders under the provisions of the Urgent Deficiencies Act. In fact, it would not appear that the question is regarded very seriously by appellants, for at page 17 they explain their position thus:

> "This point was not urged in the court below because the suit brought by the Georgia & Florida was the first under the Urgent Deficiencies Act to review a railway mail pay order of the Commission. There are many other carriers similarly situated to the Georgia & Florida and additional suits will be brought if this litigation warrants. For that reason the Commission desired a decision on the merits as a guide. Compare *Dayton-Goose Creek Ry. Co.* v. *United States*, 263 U. S. 456, 475, 68 L. ed. 397. *While the Commission would still prefer a decision on the merits*, we regard it as our duty to call the Court's attention to the jurisdictional question."

In the *Dayton-Goose Creek case* to which appellants refer, this Court said:

"The question of equity jurisdiction, raised below, has not been discussed here by counsel for the appellees, either upon their briefs or in oral argument. They do not rely on it, but seek without delay a decision on the merits."

Appellees of course also want a decision on the merits and respectfully urge that full jurisdiction to decide the case on the merits was in the specially-constituted three-judge District Court.

B. On the Extent of the Jurisdiction of the Court on the Question of Just Compensation

(Assignment of Alleged Error 3)

Upon assignment of error 3, appellants make but slight argument to support their position and content themselves with mere statements that:

> "The weight to be accorded by the Commission to the cost study, like the question of the weight to be accorded any other item of evidence, is peculiarly for the Commission. *Illinois Commerce Commission v. United States*, 292 U. S. 474, 480-481. Cf. *Baltimore & Ohio R. R. Co. v. United States*, 298 U. S. 349." (Appellants' brief, page 39.)

Appellees respectfully urge that the decisions of this Court do not hold that the question of weight to be accorded any item of evidence is peculiarly for the Commission and not for the Court, where there is a taking of property and the question of just compensation required by the Constitution is involved. That this question is involved in every case in which the Commission is called upon to determine the rates of mail pay was pointed out by this Court in *United States v. New York Central Railroad Company*, 279 U. S. 73, where it said:

> "The question is one of construction which requires consideration not of a few words only, but of the whole act of Congress concerned. This is the Act of July 28, 1916, chap. 261, sec. 5, 39 Stat. at L. 412, 425-431, (U. S. C. title 39, chap. 15, where the long sec. 5 is broken up into smaller sections), which made a great change in the relations between the railroads and the government. Before that

time the carriage of the mails by the railroads had been regarded as voluntary (*New York, N. H. & H. R. Co. v. United States*, 251 U. S. 123, 127, 64 L. ed. 182, 183, 40 Sup. Ct. Rep. 67); now the service is required (U. S. C. title 39, sec. 541); refusal is punished by a fine of $1,000 a day (U. S. C. title 39, sec. 563), and the nature of the services to be rendered is described by the statute in great detail. Naturally, *to save its constitutionality* there is coupled with the requirement to transport a provision that the railroads shall receive reasonable compensation."

* * * * * *

"The government admits, as it must, that reasonable compensation for such required services is a constitutional right." (Italics supplied.)

It would seem that this Court had fully disposed of the question of the duty of the Court in reviewing the action of the Interstate Commerce Commission where a question of confiscation is involved in its decision in the case of *Baltimore & Ohio Railroad Company v. United States*, 298 U. S. 349, 80 L. ed. 1221, cited by appellants at page 39 of their brief. This Court in its opinion in that case said:

"There is a wide and fundamental difference between the question whether the commission, in prescribing divisions found by it to be just, reasonable and equitable, complied with the procedural requirements of the Act, and whether, if enforced against objecting carriers, the order will confiscate their property. The commission's findings of fact in the field first mentioned, if based on evidence, are conclusive. But, upon the question whether prescribed divisions constitute just compensation within the meaning of the Fifth Amend-

ment, Congress is without power conclusively to bind the carriers. As the Congress itself could not be, so it cannot make its agents be, the final judge of its own power under the Constitution. Congress has no power to make final determination of just compensation or to prescribe what constitutes due process of law for its ascertainment."

Then the opinion went on to review and quote liberally from a number of prior decisions of this Court in which the rule of law has been definitely laid down that the ascertainment of what is just compensation is a judicial question and not a legislative one. The cases quoted from were *Chicago, Milwaukee & St. Paul R. Co. v. Minnesota,* 134 U. S. 418, 33 L. ed. 970; *Monongahela Navigation Company v. United States,* 148 U. S. 312, 37 L. ed. 463; *Reagan v. Farmers Loan & Trust Company,* 154 U. S. 362, 38 L. ed. 1014; *Seaboard Air Line Railway Company v. United States,* 261 U. S. 299, 67 L. ed. 664; *United States v. New River Collieries,* 262 U. S. 341, 67 L. ed. 1014; *West v. Chesapeake & Potomac Telephone Company,* 295 U. S. 662, 79 L. ed. 1640; and *St. Joseph Stock Yards Company v. United States,* 298 U. S. 38, 80 L. ed. 1033. The comment upon and quotation from one of these cases is so pertinent that it is quoted as follows:

"In Monongahela Nav. Co. v. United States, 148 U. S. 312, 37 L. ed. 463, 13 S. Ct. 622, this court held repugnant to the Fifth Amendment an Act of Congress purporting to exclude an element of value. It said (p. 327): 'By this legislation, Congress seems to have assumed the right to determine what shall be the measure of compensation. But this is a judicial and not a legislative question. The legislature may determine what pri-

vate property is needed for public purposes—that is a question of a political and legislative character; but when the taking has been ordered, then the question of compensation is judicial. It does not rest with the public, taking the property, through Congress or the legislature, its representative, to say what compensation shall be paid, or even what shall be the rule of compensation. The Constitution has declared that just compensation shall be paid, and the ascertainment of that is a judicial inquiry'."

After discussing each one of those cases and pointing out the universal rule of law laid down in them, this Court said:

"The just compensation clause may not be evaded or impaired by any form of legislation. Against the objection of the owner of private property taken for public use, the Congress may not directly or through any legislative agency finally determine the amount that is safeguarded to him by that clause. If as to the value of his property the owner accepts legislative or administrative determinations or challenges them merely upon the ground that they were not made in accordance with statutes governing a subordinate agency, no constitutional question arises. But, when he appropriately invokes the just compensation clause, he is entitled to a judicial determination of the amount. The due process clause assures a full hearing before the court or other tribunal empowered to perform the judicial function involved. That includes the right to introduce evidence and have judicial findings based upon it."

The case of *Illinois Commerce Commission v. United States*, 292 U. S. 474, 78 L. ed. 1371, cited by appellants,

does not in any way raise the question of just compensation as guaranteed by the Constitution, and what the Court said there about the reasonableness of the weight given the evidence before the Commission does not apply here. In that case a cost study had been made and a considerable time had elapsed since the making of that study. One of the parties to the proceeding raised the question before the Interstate Commerce Commission that conditions had so changed as to make the cost study no longer of value, and requested that a new cost study, based on conditions five years later, be made. The Commission held that conditions had not changed sufficiently to make the results of the cost study nonrepresentative of later conditions. The Court held, there being no question of confiscation involved, that where a purely legislative question was involved, the Court could not review the question of weight given various factors by the Commission. The situation is entirely different from the present one, as was so well pointed out in the comment and quotation from *Reagan v. Farmers Loan & Trust Company*, 154 U. S. 362, 38 L. ed. 1014, appearing in this Court's decision in *Baltimore & Ohio Railroad Company v. United States, supra*, reading as follows:

> "In Reagan v. Farmers' Loan & T. Co., 154 U. S. 362, 38 L. ed. 1014, 14 S. Ct. 1047, 4 Inters. Com. Rep. 560, a fully considered case presenting the question whether a circuit court of the United States had power to enjoin enforcement of confiscatory state-made railroad rates, this court, upon an abundance of authority found in the earlier decisions, held that it had. The opinion declares (p. 399): 'These cases all support the proposition that while it is not the province of the courts to enter upon the merely administrative duty of fram-

ing a tariff of rates for carriage, it is within the scope of judicial power and a part of judicial duty to restrain anything which, in the form of a regulation of rates, operates to deny to the owners of property invested in the business of transportation that equal protection which is the constitutional right of all owners of other property. There is nothing new or strange in this. It has always been a part of the judicial function to determine whether the act of one party (whether that party be a single individual, an organized body, or the public as a whole) operates to divest the other party of any rights of person or property. In every constitution is the guaranty against the taking of private property for public purposes without just compensation. The equal protection of the laws which, by the Fourteenth Amendment, no State can deny to the individual, forbids legislation, in whatever form it may be enacted, by which the property of one individual is, without compensation, wrested from him for the benefit of another, or of the public. This, as has been often observed, is a government of law, and not a government of men, and it must never be forgotten that under such a government, with its constitutional limitations and guaranties, the forms of law and the machinery of government, with all their reach and power, must in their actual workings stop on the hither side of the unnecessary and uncompensated taking or destruction of any private property, legally acquired and legally held'."

On page 7 of appellants' brief the thought is thrown out that the Railway Mail Act "contains no prevision for judicial review of Commission orders fixing compensation," but that "what it does provide, if a carrier is dissatisfied with its rates of pay, is a re-examina-

tion into the question by the Interstate Commerce Commission, after the lapse of six months."

Of course if appellants seriously rely on this as an argument to support their assignment of error No. 3, that the court has no jurisdiction to review the evidence and form an independent judgment upon that evidence, the obvious answer is that if such an argument is sound the Act would be unconstitutional. That is obvious from the decisions cited and commented upon in *Baltimore & Ohio Railroad Company v. United States, supra.* See also *Ohio Valley Water Company v. Ben Avon Borough,* 253 U. S. 287, 64 L. ed. 908.

C. On the Proposition that the Order of the Commission was Unlawful and Contrary to the Evidence

(Assignment of Alleged Errors 1, 2 and 4)

Under the title "II. *The action of the Commission in declining to order an increase in the rates of railway mail pay for the Georgia & Florida is supported by substantial evidence and was not arbitrary in any respect,*" the appellants argue at page 37 of their brief to the effect that on appellees' theory the Commission would be nothing more than a checker or annotator of statistics submitted to it and that the District Court also appears to entertain the same view.

The appellees deny the correctness of that representation but do maintain that the refusal of the Commission to order an increase in the rates of railway mail pay for the Georgia & Florida is contrary to the evidence and the Commission's findings based upon such evidence and was arbitrary. (*Chicago Junction Railways case*, 264 U. S. 258, 68 L. ed. 675.)

It is, of course, the duty of the Commission to weigh the evidence in the first instance but in the words of this Court in *Baltimore & Ohio Railroad v. United States*, 298 U. S. 349, *supra*,

> "• • the due process clause assures a full hearing before the court or other tribunal empowered to perform the judicial function involved. That includes the right to introduce evidence *and have judicial findings based upon it.*" (Italics supplied.)

The Real Question: On the merits the matter really resolves itself into the question of whether the Commis-

sion's order was arbitrary and contrary to the evidence. That is an issue which calls for consideration of the evidence which was before the Commission and of every reason given by the Commission in either its first or second decision for completely disregarding the cost study:

FIRST—As to the Evidence

The Cost Study: A test period was agreed upon with the Post Office Department as being representative, and a space test was conducted *on the Georgia & Florida only* for a period of 28 days extending from September 28 to October 25, 1931, inclusive, under the supervision and direction of a representative of the Post Office Department (R. 94).

The Adjustment Required: There were no controversies or disputes between the Post Office Department and the carrier upon any of the figures of the test period. However, the Department made a calculation to check the number of car-miles in the test period against the carrier's total car-miles for the entire year, and discovered that the number of car-miles for the test period did not represent 28/365ths of the total number of car-miles actually operated during the year, because the carrier ceased operating certain of its trains in the early part of 1931, and the mail service formerly carried on those trains had, of course, been discontinued. Consequently, when the Post Office Department and the carrier came to apply the results of the test period to the full year it was agreed between the parties before the Commission that adjustments be made because of the change in the train service and the

elimination of some of the authorized mail routes (R. 122, 123).

During the test period 15.03 per cent of the total space available in passenger service was allocated as chargeable to the mail, but by this agreement this ratio was reduced to 12.96 per cent. The railroad criticized the adjustment as going too far in the other direction, because it gave full effect to the results of train operations permanently discontinued prior to the test period, so that the allocation of 15.03 per cent of the total space in passenger service was really more representative of conditions following such discontinuance of service than an adjustment to the average of the entire year; but as the carrier wanted to be sure that there could be no question of the accuracy of the result it accepted the adjustment as so made. Indeed in every instance of doubt the railroad agreed to every possible adjustment suggested by the Post Office Department in the hope that it could not even be argued that the result would err in favor of the railroad, and so that the need demonstrated by the result of the cost study would be accepted as conservatively indicating the minimum need. In fact, not only were the space tabulations agreed upon, but all of the operating and financial statistics were checked by the Post Office and the carrier and agreed upon (R. 96).

The Post Office Department's Agreement on the Cost Study: The Post Office Department, as stated, took no exception to any of the basic facts of the cost study, and indeed the chief witness for the department testified that:

> "In this case the test period was selected, as well as could be determined by both parties, as being

representative, and after that test period was ran, the Postoffice Department made its calculations and compared same with the year's figures, which indicated to the mind of the Postoffice Department that *in order to make it absolutely fair* that some adjustments should be made in favor of the department. All of those adjustments were granted by the Georgia & Florida. There were no differences left in dispute between the railroad as to the correctness of the figures as shown by the test period. I am speaking of the space figures, the test figures. We did question the application of Plan No. 2. That is where we differed with each other.

* * * * * *

"'A. It was the most equitable basis that I could devise, and because it was, I think that the representatives of the railroad company accepted that basis'." (Italics supplied.) (R. 96.)

The Apportionment of Unoccupied Space in Combination Cars: The standard "Plan 2" referred to was the one prescribed by the Commission, and, pursuant to its usual custom in all other mail pay cases the Department again questioned that rule for distributing the waste space. However that question is not here in issue, as the Commission in both of its decisions approved that method of apportioning waste space, and the appellants are here arguing for the correctness of the Commission's second decision, and appellees agree that "Plan 2" is the correct method for the apportionment of unoccupied space.

The Increase Needed as Shown by the Undisputed Cost Study: Based upon the cost study figures *before any adjustment* the increase in rates necessary to meet

the duty of the United States to pay just compensation was 118 per cent (R. 7), but *after adjustments* suggested by the Department, all of which were accepted by the carrier, the Department's own exhibits and testimony on the cost study showed (1) that the mail revenue was at the rate of only $35,728 per annum (R. 7); (2) that the expenses of operation chargeable to the mail service were $40,673 per annum; (3) that the deficit in net railway operating income from mail was $4,945 (R. 7); and (4) that in addition to that deficit $26,282 per annum would be necessary to pay a return of only 5.75 per cent upon the value of the property devoted to the mail service (R. 8); so that to pay the expenses and a 5.75 per cent return a total additional amount per annum of $31,227, or expressed percentage-wise an increase of 87.40 per cent would be required (R. 8).

The Post Office Department's Reliance on Classification: It was not upon any issue of fact, or upon any question of inaccuracy in the cost study, or unfairness in the compensation indicated by the cost study to be needed that the Department took a stand. They relied mainly upon the argument that it would be disadvantageous to make a departure from the group *classification* in which the Georgia & Florida was included (R. 80). The chief counsel for the Department expressed this attitude in the hearing, in briefs, and in oral argument. In the hearing he said:

> " 'Mr. Wise. In other words, Mr. Examiner and counsel for the carrier, the Department is not opposing any railroad or anything that is reasonable in the way of a rate at all, but our position is that

we cannot look at a railroad *individually,* because when a railroad perhaps comes to us we have to look at the whole proposition collectively. And this is an indication of our *collective problem'.*" (R. 7, 80.) (Italics supplied.)*

The Commission's Findings: The results obtained from the one and only cost study in the record are best described in the Commission's first report and even though it is somewhat of a repetition, were as follows:

"For the year ended December 31, 1931, the total operating expenses, railway tax accruals, net equipment, and joint-facility rents were $1,449,801. Of this amount 21.74 per cent, or $315,273, was apportioned to passenger train service in accordance with the formulas prescribed for Class I roads for the separation of expenses between freight and passenger services. Certain expenses were directly allocated to passenger traffic. The remainder was apportioned upon the space ratios as adjusted by the department. The total apportioned to mail was $40,673. The computed deficit in net railway operating income from mail was $4,945.

"The total investment in road, excluding unrelated items, was $15,864,462. Of this, 21.44 per cent, or $3,401,578, was apportioned by the De-

*(From the Post Office Department's Reply to Exceptions dated December 14, 1935.)

"Applicant has repeatedly urged upon the Commission its claims that it should not be treated as a Class I railroad, and the Commission has given consideration to these claims and disposed of them in previous decisions fixing rates for railway mail pay. In *Railway Mail Pay,* 144 I. C. C. 675, 676, the Commission disposed of this matter, at which time applicant endeavored, by becoming a member of the Short Line Association, to receive special consideration as a short line road, but the Commission expressly stated that it is a Class I road and fixed its rates accordingly. The Commission reaffirmed this decision in 192 I. C. C. 779."

partment to passenger-train service. The part of the latter amount apportioned to mail upon the adjusted space ratio was $438,803. The total investment in equipment, less depreciation, allocated to the passenger-train service was $135,257, approximately 10 per cent of the total. Of this amount $18,279 was allocated and apportioned to the mail service. The total investment in road and equipment allocated and apportioned to mail was $457,082. A return upon this computed at 5.75 per cent is $26,282 which, added to the indicated deficiency in net railway operating income from mail of $4,945, brings the total claim of the carrier for increased compensation to $31,227. *To meet it upon the basis of 1931 operations would require an increase in compensation of 87.40 per cent.*" (Italics supplied.) (R. 7.)

The appellees believe that the foregoing statements were formal findings of the Commission, for if they are not such findings there are no findings in the report except the very final conclusion. Appellees submit that the Commission did not state the figures in its report merely to show what the carrier claimed, but that the statements were in fact findings on the evidence of the cost, all of which was undisputed.

However, wholly disregarding those findings which showed that an increase of 87.40 per cent was necessary, the Commission, in its first order fixed the rates of mail pay no higher than they had been in the past.

The First Decision of the Court: It was of that situation with respect to the evidence and upon the Commission's own findings as to what was the evidence,

and after bill and answer and a full hearing and argument, that the lower court said:

> "No other facts were established or sought to be established than those set forth in such order of said Commission, a copy of which is annexed to petitioners' complaint, • • •. The challenge is to the conclusion drawn from undisputed facts" (R. 29).

The court also pointed out that there was no attack upon the efficiency of the operation of the railroad and no charge of extravagance. (R. 30).

It is highly significant that that decision was not appealed.

The Record in the Second Hearing: Although there was already in the record an undisputed cost study, made pursuant to the methods approved in all other mail pay cases, agreed upon between the two parties, and with the same supporting evidence found sufficient by the Commission in all other cases, upon which the Commission should have ordered an increase of 87.40 per cent, the Commission reopened the proceedings for further hearing.

Upon the rehearing before the Interstate Commerce Commission, little, if any, new factual evidence was presented by either party. Certain operating data was brought down to date in exhibits filed by the Post Office Department, and at the time of its presentation the witness for the Department stated that it showed

mainly that the Georgia & Florida Railroad performed practically the same mail service and received practically the same compensation as received during the year 1931 (R. 85). It was not considered necessary by either party to the proceeding for a new cost study to be made, and no new cost data was introduced at the rehearing on June 24, 1935 (R. 85, 86).

There was only one new fact adduced at the rehearing: J. L. Fulghum, a witness for the Post Office Department, testified that as Chief Clerk, Railway Mail Service, District No. 2, 4th Division, which includes the Georgia & Florida Railroad, he had made a complete inspection of the service on that railroad on March 14, 1935. He said that "on the date of the inspection we were operating a 30-foot apartment car." He made only the one trip (R. 97, 99) and gave no testimony that the use of a 30-foot apartment for mail instead of a 15-foot apartment space would in any way increase the amount of waste space in the car, and so affect the accuracy of the cost study. The other testimony at the hearing was devoted in large measure to a reading from the Commission's uniform classification of accounts its own rules for the separation of expenses as between freight and passenger services, the methods which carriers, including the Georgia & Florida, are compelled to follow under severe penalties for failure to do so. There was nothing new in this however, for the Commission, having promulgated those rules by formal order and having made them applicable to the Georgia & Florida Railroad, certainly knew the provisions of its own rules when it made its first decision (R. 258).

In fact, the Commission in *Excess Income of Richmond, Fredericksburg & Potomac Railroad Company,* 170 I. C. C. 451, 519, said that the use of their classication of accounts was so general and the knowledge of them was such that Congress must be presumed to have legislated in accordance with such knowledge, saying so in the following language:

> "Congress based recapture expressly upon 'net railway operating income', defined as 'railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents.' Each of the terms used in definition has a precise meaning in our classification of accounts, and each was understood at the time the law was enacted according to those meanings, because *the classification was uniformly followed in railroad accounting and there were no accounting data in existence to which they might have been applied in any other sense.* Congress must, therefore, be understood as having used them with the same meaning and to have intended accordingly that, wherever it could be done without confiscation resulting, operating expenses were to be computed in accordance with our classification of accounts and not on the basis for which the respondent contends." (Italics supplied.)

Reliability of the Space Studies: Not only were the space studies made according to the Commisison's own rules and regulations, which have been invariably approved by the Commission, but there was no substantial evidence indicating any inaccuracies in the result, especially after adjustments agreed upon between the parties had been made to meet every possible suggestion of error. Yet appellants are here

questioning the result of the cost study, raising strained contentions as to the extent of use of the three-foot closed pouch units and the effect of the position of a partition in the midst of unused space as justifying the entire disregard of the cost study. This Court has said, however, that it is approximate correctness that is required and not mathematical exactitude. (See *Baltimore & Ohio Railroad Company v. U. S.*, 298 U. S. 349, 378, 80 L. ed. 1209.) This same rule was applied by the lower Court when it said:

> "Neither applicant nor this court entertains the view that the hypothetical cost is 'necessarily conclusive'. It is merely the fairest method that has been devised. If 'actual cost' as to each item be required applicants would be helpless and the Commission would be reduced to guessing. What elements may have been persuasive 'in other mail proceedings' are not necessarily to be considered here, and should not be in the absence of supporting testimony and some indication as to what weight was given each element. Further, there is no testimony here as to 'unused space reported as operated'. There is included payment for unused space not operated, of which more later. There is nothing to justify disregard of the fact used in the first report that 'space authorized for mail is regarded as space used.'" (R. 57.)

SECOND—As to the Reasons Given by the Commission for Disregarding the Evidence

To facilitate the consideration of the Commission's reasons all of them as given in both of its decisions are summarized, and numbered below:

The Reasons Given in the Commission's First Decision: After first finding that the cost study by the Post Office Department, made in accordance with approved methods, and (after adjustments claimed by the Department and conceded by the Carrier), showed that an increase of 87.40 per cent was required to meet the indicated need for just compensation, the Commission summed up the case in the following words:

> "Applicant bases its claim for higher rates upon the space data of the test period and their application in a cost study; and also upon the fact that, because of its low traffic density and low earnings per mile of road, it is not comparable with many class I roads which receive the same rates of pay" (R. 9).

It then declared that while a cost study was an approximation of the actual cost of service, it was only to be given such weight as seems proper in view of all the *circumstances.* The following were the Commission's exact words:

> "The cost study is not considered to be an accurate ascertainment of the actual cost of service. It is an approximation to be given such weight as seems proper in view of all the circumstances. See Railway Mail Pay, supra" (R. 9).

Then the Commission specified all of the *circumstances* on which it then apparently relied for giving no weight to the approximation of the actual cost of the service:

(1) That "the comparison of mail revenue with other revenue received for services in passenger-train operations shows that mail with relation to the other services is bearing its fair share of the expenses of operation and is contributing relatively more than the other services for the space furnished" (R. 9).

(2) That "applicant receives the same rates as those received by other roads for the same kind of service. Many of these other roads are, as applicant points out, roads which are very much larger and which have greater traffic and lower unit operating costs. On the other hand, many are in much the same situation as the applicant in respect of passenger-train operations. The data submitted fail to justfy giving the applicant rates higher than those now paid other railway common carriers for like service" (R. 9, 10).

The Reasons Given in the Commission's Second Decision: In its second decision on the same cost study, after stating that no additional tests were made, the Commission advanced the following additional reasons:

(3). That the cost study (which it had previously termed an approximation of the actual costs) was a hypothetical cost not necessarily conclusive (R. 44).

(4) That the space data in the cost study could not be accepted as an accurate guide beause there an alleged "extra 15 feet of space was added to unoccupied space in the combination car * * *", which "increases the amount of space and the expense apportioned to mail" (R. 45).

(5) That an element of doubt as to the reliability of the space study arises from treating 3-foot units of authorized mail space as the full space used by mail, regardless of the loads carried (R. 47).

(6) That a change in the use of space by any of the different services might change the apportionment to either service due solely to change in the other (R. 48).

(7) That if all the entire space on passenger trains paid as much per foot as the rates prescribed per foot for the amount of space authorized for the mail, the revenue per car-foot mile would approach quite closely the fully hypothetical cost per car-foot mile plus a 5.75 per cent return both for mail service and for passenger train service as a whole (R. 49).

An examination of each of all the seven reasons given by the Commission in its two reports now follows:

(1) *Comparisons with Other Classes of Service:* On page 57 the appellants make an argument under the title *"Nature of the Commission's Power"* which appellees understand to mean that the case of *Olson v. United States,* 292 U. S. 246, 257, is advanced as authority for the proposition that the Commisison may, in the discharge of its duty to ascertain and fix rates of mail pay which will comply with the duty of the United States to pay just compensation, disregard an approximately correct ascertainment of the cost of the service and a return upon the value of the property used; and substitute instead as the measure of just

compensation the amount of revenue derived by the carrier from other classes of its service, although those other classes of service are admittedly operated at a loss.

In the first place appellees respectfully submit that the case cited does not stand for any such proposition, because *Olson v. United States, supra,* was a case involving the question of the elements of value to be considered in arriving at the value of shorelands bordering the Lake of the Woods in Minnesota, and what the Court said in that case was that there were no "prevailing prices" by which to measure the value, *hence market value must be estimated.*

Indeed this very *Olson case* seems to be so much better support for the appellees' case than for the appellants' argument that it is probably well to make the following quotations from it:

> "Flowage easements upon these lands were not currently bought or sold to such an extent as to establish prevailing prices, at or as of the time of the expropriation. As that measure (United States v. New River Collieries Co., 262 U. S. 341, 344, 67 L. ed. 1014, 1017, 43 S. Ct. 565) is lacking, *the market value must be estimated.* • • • In making that estimate there should be taken into account all considerations that fairly might be brought forward and reasonably be given substantial weight in such bargaining. Brooks-Scanlon Corp. v. United States, 265 U. S. 106, 124, 68 L. ed. 934, 941, 44 S. Ct. 471. The determination is to be made in the light of all facts affecting the market value that are shown by the evidence taken in connection with those of such

> general notoriety as not to require proof. *Elements affecting value that depend upon events or combinations of occurrences which, while within the realm of possibility, are not fairly shown to be reasonably probable, should be excluded from consideration* for that would be to allow mere speculation and conjecture to become a guide for the ascertainment of value—a thing to be condemned in business transactions as well as in judicial ascertainment of truth." (Italics supplied.)

Like the *Olson* case evidence of anything which could reasonably be termed "prevailing prices" within the meaning of that decision is here lacking, hence has been approximated by the cost study, although it may be remarked as a merely incidental matter of fact, the Commission has in several instances fixed higher rates (see the table with citations on page 93 herein) for the same size of mail service units for other weak carriers, with which the Georgia & Florida is more nearly comparable than it is with the large Class I railroads with which it has been arbitrarily bracketed. However, any reasoning on the consideration of those rates as "prevailing prices" would merely go around in a circle because the Commission fixed them in all instances.

The cost study in this case, after allowing for all adjustments claimed by the Post Office Department is one which, under the rule in the *Olson case,* has in fact "taken into account all the considerations that might fairly be brought forward and reasonably be given substantial weight," and has been described by the lower court as "the fairest method that has been devised" (R. 57). Appellees fail to see, however, how it can be logically maintained that the fact that they

lose less on one class of service than from another class can be said to prove that they are getting all they are entitled to from the service on which they lose the least. It is a fact that the Georgia & Florida is a weak and needy road which is failing to earn an adequate return from its various classes of service, and it would be ideal if each class of service could be put on a paying basis, and to that end the appellees are constantly striving, but the fact that there is a relatively greater deficit from services other than mail, is no reason why the mail service should not pay its own way.

The appellees respectfully submit that the circumstance that other classes of service also lose money is not one which would in any way justify the Commission in disregarding the cost study when indeed the very object of that study in this, as in all other cases, was to so separate and allocate costs and use of property as to permit a determination of the rates of pay required in order to meet the duty of the United States to pay just compensation for the mail service on its own separate merits. *The Court below properly disposed of this contention when it said:*

"The fact that this railroad lost more money on other services rendered by it * * * * do not refute or impair the fact that the compensation allowed this railroad for the transportation of the mail does not equal the cost of so doing" (R. 30, 56).

(2) *Comparisons with Other Railroads:* The real point in this case is whether the Commission, under a claim that "the weight to be accorded by the

Commission to the cost study, like the question of the weight to be accorded any other item of evidence, is peculiarly for the Commission" (appellants' brief, page 39), can disregard an agreed cost study on a standard basis laid down by the Commission, and arbitrarily substitute instead the same rates prescribed in another proceeding for all lines over 100 miles in length, which rates admittedly were "based upon findings as to the average cost of transporting the mails on all railroads throughout the United States" (appellants' brief, page 8).

That the circumstance that this carrier had heretofore been grouped with lines over 100 miles in length was a controlling consideration with the Commission in its first decision is manifest from the language of its concluding findings and from the language of its order. Is this any less so now?

The brief for the appellants, at page 63, undertakes to show that in its second report the Commission has gotten around that difficulty by omitting in its new findings any express reference to the fact that its decision is controlled by the rates paid other lines over 100 miles in length. The language of the appellants' brief is this:

> "The lower court held immaterial what it stated to be 'The fact that this railroad lost more money on other services rendered by it or that other railroads transported mail under similar, if not identical conditions, at a profit.' (R. 56). The report of Division 5 made some reference to rates paid railroads other than applicant. *The report of the entire Commission, however, on rehearing*

made no such reference, but confined its analysis to the evidence of operations by applicant only." (R. 63.) (Italics supplied.)

The appellees respectfully submit, however, that despite the excisions and revision made by the Commission in its second report, nevertheless this circumstance was the controlling reason for the Commission's action in this case, as it believes the following review will demonstrate:

(a) In the first place it must be borne in mind that the Post Office Department in the original hearing did not combat the cost study or argue against the weight to be attached to it. *The Post Office Department's real position* was indicated in the original hearing of June 29, 1932 in the words of its attorneys as follows:

> "There has been some reference made to this road being a group of short lines and always being associated with short lines, and with the idea in mind, as we understand it, that they may now be treated similarly to the short lines in receiving special rates. *We fear if this were permitted that it would open the door to applications by all roads similarly situated that are small Class I roads.* Not only that, but the Department would feel bound to take up with the Commission the question of revising the rates as to other roads which show an excess of earnings above the limit practically fixed by the Commission. This exhibit is therefore offered in the nature of information to the Commission so that they will understand that whatever action is taken in this case may be rather far-reaching." (R. 80.) (Italics supplied).

(b) In the second place as the appellants' brief page 8, expressly recites "the present rates received by the Georgia & Florida were based upon findings as to the average cost of transporting the mails on all railroads throughout the United States other than electric urban and interurban railroads."

(c) In the third place on page 10 of their brief, as a foundation for their reasoning the appellants argue that "It may be *assumed* that the rates prescribed in the 1928 *Mail Pay case* were, *when fixed*, just and reasonable. To determine whether they *still are* requires an analysis similar to that made at that time so far as data are available."

(d) In the fourth place the Commission's second order, as well as the first, plainly reveals that the Commission's conclusions giving no weight to the cost study have been dominated by the consideration urged by the Post Office Department, namely, the preservation of classification. The language of the order is significant in its very reading by the words:

> "It is ordered, That the rates of pay for the transportation of mail matter *established in Railway Mail Pay*, 144 I. C. C. 675, *for railroads over 100 miles in length be*, and they are hereby, established as fair and reasonable rates to be received by the applicant herein for services rendered on and after April 1, 1931." (R. 51.) (Italics supplied).

(e) In the fifth place the appellants' brief, on page 61, expressly makes argument under the special heading "*IV. The classification of roads over 100 miles in*

length different from those under 100 miles in length was reasonable."

In this last connection, the following words of the Commission's first decision are significant.

> *"The data submitted fail to justify giving the applicant rates higher than those now paid other railway common carriers for like service."* (Italics supplied.) (R. 10.)

The logic of the foregoing citations is that in the weight it has not given to the cost study the Commission has continued to be influenced by reluctance to take this carrier out of the general classification with other lines over 100 miles in length. The reasoning of the appellants' brief, pages 10, 11, 17, 61 and 63, which apparently stems from that consideration, involves two propositions which the appellees respectfully submit are erroneous, namely:

(a) The Commission is certainly not entitled to disregard the weight of the cost study on the theory that the appellees must overcome a presumption favoring the pre-existing rates for the Georgia & Florida "based on the average cost for transporting the mails on all roads throughout the United States."

There is of course no such rule of adverse presumption to debar a person entitled to receive just compensation from the government.

(b) The Commission is also not entitled to disregard the weight of the cost study because the Commis-

sion has heretofore made so few exceptions to the principle of fixing the same rates for all lines over 100 miles in length on an average of all their costs.

The Principle of Reasonable Classification: The carrier does not question the general principle that classification for some purposes is proper, but it claims the right to have its compensation fixed so that it will be compensatory to itself on the evidence of the separate cost study agreed upon with the Post Office Department. It is also expressly given that right to just compensation for itself by the statute itself (July 18, 1916, chap. 261, section 5, 39 Stat. 430); and furthermore is entitled to its just compensation as a matter of constitutional right guaranteed to it by the Fifth Amendment of the Federal Constitution. Speaking of this Mail Pay Act, this Court, in *United States v. New York Central R. R.*, 279 U. S. 73, said:

> "Naturally, to save its constitutionality there is coupled with the requirement to transport a provision that the railroads shall receive reasonable compensation."

While the Court used the plural word "railroads" it was because there were a plurality of railroads involved in that case; but it cannot be doubted but that the principle is equally applicable to any individual railroad.

It is true that in the last general mail pay case decided July 10, 1928 (144 I. C. C. 675), the Georgia & Florida was an unfortunate victim of classification, i. e., where the cost ascertainments for carriers over 100

miles in length as one major group indicated that an increase of 26.61 per cent was necessary, they were given 15 per cent while for the lines under 100 miles in length as another major group an increase of 91 per cent was indicated to be necessary and they were given an increase of 80 per cent.

The Georgia & Florida made the same cost study at the same time as the others, and pleaded, unsuccessfully, for special treatment or to be put in the short line group, the increase then indicated as necessary for it being 78 per cent. By the process of classified grouping, however, it was at that time put into the major group of the large roads which were given an increase of only 15 per cent. (See page 95 herein.)

However the appellees respectfully submit that there is a fundamental distinction between (a) those general cases where the law *empowers* the Commission to make classifications, and (b) the present individual case in which the law and the Constitution make it *the duty* of the Commission to determine the rates of pay for this particular road upon the evidence in respect to it alone; and the Commission has no lawful right to force onto the Georgia & Florida confiscatory rates of pay *fixed by averages in some other case* which is not a part of this record and has no place or part herein.

The case of *Aetna Insurance Co. v. Hyde*, 275 U. S. 440, 447, 72 L. ed. 357, 364, although the facts are the converse of the situation, contains much in point. In that case this Court said:

> "No company receiving just compensation is entitled to have higher rates merely because of the

> plight of its less fortunate competitors. Companies whose constitutional rights are not infringed may not better their position by urging the cause of others. *Albany County v. Stanley,* 105 U. S. 305, 311, 26 L. ed. 1044, 1049; *Heald v. District of Columbia,* 259 U. S. 114, 123; 66 L. ed. 852, 854, 42 Sup. Ct. Rep. 434. As a practical matter of business, it is impossible in the long run for some companies to collect higher premiums than those charged by others in the same territory. *Rates sufficient to yield adequate returns to some may be confiscatory when applied to the business of others.* But the latter have no constitutional right to prevent their enforcement against the former." (Italics supplied.)

The converse of the Court's statement is equally true that no railroad company failing to receive just compensation for transporting the mails is required to accept a confiscatory rate merely because the rate may yield adequate returns to some fortunate companies with which it is classified.

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(3) *Cost Study as an Approximation:* Appellees do not quarrel with the proposition that the cost study is not a *mathematically exact* ascertainment of the precise cost of service, but respectfully submit *it is an approximation* which furnishes a sufficiently reliable basis for sound conclusions and assert that if it errs at all, it does not err in favor of the appellees.

The Commission has heretofore expressly said, in many previous decisions, that this very method of cost ascertainment is a sufficiently reliable basis for conclusions as to the reasonableness of the rates of pay;

for instance, in *New England Railway Mail Pay*, 85 I. C. C. 157, 179, Division 1 of the Commission said:

> "The space ratios and the apportionments of expense and investment based on such ratios cannot be regarded as exact mathematical ascertainments of the cost of the mail service to the carriers. *They furnish, however, a sufficiently reliable basis for conclusions as to the reasonableness of the present rates of pay.*" (Italics supplied.)

That statement was cited with approval in *Railway Mail Pay of Woodstock Railway Company and White River Railroad Company*, 96 I. C. C. 43, 46, and substantially similar statements were made by the Commission in the *Winston-Salem Southbound Railway Mail Pay Case*, 123 I. C. C. 33, 40, and *Railway Mail Pay*, 144 I. C. C. 675, 691.

Terming the cost study in the present case an "*approximation*" does not seem to have been expressed in just that way in other cases, for the language in previous decisions has been that "the cost study furnishes a *sufficiently reliable basis*" or a "substantial basis" for conclusions as to the reasonableness of mail pay rates. The three terms are not greatly different, however, and the word "approximate" has been defined by the courts. In *Ross v. Keaton Tire, etc., Co.* (1922), 57 Cal. App. 50, in which there was involved a promise to pay rent at the rate of 8 per cent on cost of a building to be erected and "to cost *approximately* $21,000.00," the Court held that the actual cost of $31,857.00 was not approximately $21,000.00. The Court said "The word 'approximate' is defined '*to come close to*, as in quality, degree, or quantity; approach closely without

coinciding with exactly,' or reaching the specified amount or quantity. *(Bloomington Canning Co. v. Union Can Co.*, 94 Ill. App. 62.)''

In *City of Richmond v. I. J. Smith & Co.*, 89 S. E. 1923, 119 Va. 198, involving the excavation of bridge foundations to bed rock, the depth of which was given as ''approximate,'' the Court said, ''When, therefore, the line of bedrock was given as 'approximate,' it was intended to express the idea that the line as shown upon the profile was *nearly, but not exactly,* correct. See Webster's International Dic.''

In *Worcester Post Co. v. W. H. Parsons Co.*, 265 Fed. 591, it was held that a contract for sale and delivery of ''approximately'' 45 tons per month did not permit of any substantial variation or departing from that number without consent.

All Other Mail Cost Ascertainments Have Been by the Same Methods: Furthermore that there should be no real difficulty over the cost ascertainment in this particular instance, on the Commission's own formulas, is apparent from the manner in which the Commission has repeatedly dealt with cost studies on precisely the same formulas for roads, both larger and smaller than the Georgia & Florida; and to bring that out plainly the following review of the Commission's treatment of this same kind of cost ascertainment in some of the previous mail pay decisions will be enlightening:

The First General Mail Pay Case: In the first general railway mail pay case (decided December 23, 1919, 56 I. C. C. 1), there was nothing in the deci-

sion which would determine the percentage of increase other than that the new rates which were prescribed and the figures there shown are the result of applying to the authorizations for 35 days in 1917 both the old and the new rates effective, first, from November 1, 1916 to January 1, 1918, and, second, the rates in effect after January 1, 1918 which were increased 25 per cent over the rates prescribed November 1, 1916 to January 1, 1918. The rates prescribed for the first period represented an increase of 28.61 per cent, while the rates prescribed for effect January 1, 1918 represented an increase of 60.76 per cent.

In that said first general railway mail pay case no separate ascertainment was made in the Commission's report to show the per cent of indicated need for any individual lines, or even as between Class I roads and Class II and Class III roads. After prescribing the same basic rates of pay per units of space, a percentage was added for Class II and Class III lines less than 100 miles in length, of (a) 20 per cent for such short lines over 50 miles in length, and (b) 50 per cent for those of less than 50 miles, together with a minimum amount per mile per annum.

The Second General Mail Pay Case: In the second general railway mail pay case (decided July 10, 1928, 144 I. C. C. 675), the same sort of cost studies indicated (for those lines which made such studies) the per cent of increase needed by each separate line, but the Commission used its power *(in that general case)* to classify. It found that for Class I roads, and roads over 100 miles in length, as one major class, the *average* per cent of increase indicated to be necessary was

26.61 per cent, and on that showing it prescribed *an average* increase of 15 per cent; while for Class II and Class III lines less than 100 miles in length, as another major class, the Commission found *an average* of 91 per cent increase was indicated to be necessary, and on that showing it prescribed *an average* increase of 80 per cent.

Intermountain and Pacific Coast Short Lines (95 I. C. C. 493): The roads in that case were 23 short line railroads in intermountain and Pacific Coast territories. They ranged in length from 6 to 166 miles. For the 23 roads as a whole the mail space ratio was 9.65, and the amount of unoccupied space apportioned to mail in the cost ascertainment was equivalent to 69.61 per cent of the mail space authorized (112 I. C. C. 151, 154) and an increase of 100 per cent was awarded; whereas in this case of the Georgia & Florida the mail space ratio was 12.96 and the corresponding ratio of unoccupied space was 76 per cent, but no increase whatever was awarded.

Alabama, Tennessee & Northern Railroad (112 I. C. C. 151): The per cent increase indicated necessary by the same sort of cost study was 134.3 per cent and an increase of 100 per cent was ordered.* In that case

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* "In *Railway Mail Pay*, 95 I. C. C. 493, we found rates of mail pay unreasonable and established rates *100 per cent greater*. The roads in that case were 23 short-line railroads in intermountain and Pacific Coast territories. They ranged in length from 6 miles to 166 miles. The rates of mail pay found unreasonable upon the roads in that case over 100 miles in length were the same as those now in effect upon the applicant in the instant case. For the 23 roads, as a whole, the mail-space ratio was 9.65 as compared with 16.13 for the Alabama, Tennessee & Northern. For the 23 roads the amount of unoccupied space apportioned to mail in the cost ascertainment was equivalent to 69.61 per cent of the mail space authorized. In the instant case the corresponding figure is 33.64

the mail space ratio of the Alabama, Tennessee & Northern was 16.13, and the amount of unoccupied space apportioned to mail in the cost ascertainment was equivalent to 33.64 per cent (112 I. C. C. 151, 154).

Winston-Salem Southbound Railway (123 I. C. C. 33): The per cent of increase indicated to be necessary was 146.7 per cent, and the increase awarded was 50 per cent.* In that case the mail space ratio of the Winston-Salem Southbound was 13.17 per cent, but the amount of unoccupied space apportioned to mail was 177 per cent, which the Commission expressly found to be excessive, due to extraordinary conditions which were relied upon to justify a large discount (123 I. C. C. 33, 39). In the case of the Georgia & Florida that ratio was but little more than a third of that of the Winston-Salem Southbound, and there was no finding that the Georgia & Florida ratio was excessive.

Furthermore, in the Winston-Salem Southbound case it appeared that it was a road owned jointly by two trunk line systems, the Atlantic Coast Line and the Norfolk & Western.

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per cent. An increase in the mail pay rates now accorded the Alabama, Tennessee & Northern, *to the basis established in the case* cited (Note: 100 per cent increase) would be sufficient to pay the operating expenses chargeable to the mail service and *some* return upon the mail portion of the investment in road and equipment." 112 I. C. C. 151, 154. Note and Italics supplied.)

* "We are of the opinion that the rates of pay now accorded the Winston-Salem are not fair and reasonable, and that increases are justified. The mail-space ratio under present methods of operation is too high (note: 177 per cent), due to the operation of an unnecessary amount of unused space. We do not believe that it is possible to operate without some unused space, but the amount should be kept within reasonable limits. The rates established herein take this into consideration." 123 I. C. C. 33, 40. (Note supplied.)

Denver & Salt Lake Railway (151 I. C. C. 734): This was an interesting instance of a *Class I road* (which had been previously excluded from the second general Mail Pay Case because it was already being paid special compensation by the Post Office Department under an individual contract)* and in its subsequent individual case the same kind of cost study as that made for the Georgia & Florida indicated that the *per cent increase necessary was 68 per cent, and the increase awarded was 60 per cent.*

It could be argued that the Denver & Salt Lake Railway was an exceptional case that was entitled to being paid higher rates than were prescribed for all other Class I carriers; appellees freely grant that this is so, but maintain that the Georgia & Florida is entitled to have due weight given to the evidence of record.

The Lower Court's Considered Conclusion: The lower Court had before it the explanation given by the Commission in its second decision and, after listening to oral argument, disposed of this contention as follows:

> "Neither applicant nor this Court entertains the view that the hypothetical cost is 'necessarily conclusive.' It is merely the fairest method that has been devised. If 'actual cost' as to each item be

* "The Postmaster General is authorized to make special contracts with the railroad companies for the transportation of the mails where in his judgment the conditions warrant the application of higher rates than those herein specified, and make report to Congress of all cases where such special contracts are made and the terms and reasons therefor." *Act of July 28, 1916, 39 Stat. 412.*

required applicants would be helpless and the Commission would be reduced to guessing." (R. 57.)

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(4) *The Thirty-foot Partition Fallacy:* Appellees dispute the accuracy of the statement in the Commission's report upon rehearing (R. 45) that the operation of the 30-foot railway post office apartment, instead of a 15-foot authorized space "results in the operation of an amount of unused space equal to the authorized 15-foot apartment and thus increases the amount of space and the expense apportioned to mail."

The lower court perceived the fallacy in the Commission's position on this point and said:

> "Further argument of the Commission, as we understand it, is that because 30 feet instead of 15 feet is partitioned off for mail this adds 15 feet to the unused space for which the Post Office Department pays a part. We do not so understand the testimony. Our understanding is that the unused space is the same wherever the partition be placed" (R. 57.)

However, this is the one point upon which there was some new evidence in the second hearing, and the brief for the appellants seizes upon a meagre fact to multiply argument at such length that by way of precaution it will have to be adequately noticed:

The real essence of the question is as to whether if as the result of the location of the partition, in the words of the lower court (R. 58), an unnecessarily large car is used and this adds to the portion paid by the

mail for unused space and that if 15 feet were eliminated from the car the mail space ratio would be reduced to 10.79 per cent, resulting in a profit to applicant from mail of $1,711. (*Note:* Before any return on investment.)

There was nothing in the record on the original hearing on the point of the furnishing of a 30-foot railway post office on an authorization for only 15 feet, although the test was conducted under the supervision of experienced representatives of the Post Office Department, and if the fact had been of the slightest consequence it would undoubtedly have been brought out in the beginning. It was not even brought up, and there is not one word in the record to indicate that the furnishing of a 30-foot railway post office on an authorization for only 15 feet would adversely affect the Department's proportion in the cost study. It was the Commission in its second decision, and not the experienced practical men of the Department who know better, that has seized upon this fallacious argument. The only place in the record where the Commission can go for any evidence on this point is the testimony of Witness Fulghum, and to demonstrate how really weak is the Commission's foundation all of his testimony which has any direct or indirect relation to that point as shown by the record, is as follows:

(Directly on the point)

"The 15-foot apartment unit is authorized in those trains daily, because that is the minimum unit which may be authorized. *On the date of the inspection we were operating a 30-foot apartment car.* (Italics supplied.) (R. 97.)

(Not really on the point)

"A 15-foot apartment car of standard size and specifications provides storage space for an estimate of 50 sacks of mail. I think the actual linear feet of storage space is perhaps 3.2. Asking what we do, if we have 51 sacks of mail: If the car operated is of the type and size operated, there is no restriction as to the use of the facilities which it provides. If there are only 10 sacks in there, why, we pay for it, and if we can get 60 in there, why, we have the privilege. As to oversized cars: The situation is different; if the company supplies an oversized car in lieu of a car of the size authorized, we are restricted to the use of the actual facilities provided in a car of the size authorized. In other words, we are not permitted to take more than 50 sacks of mail into the car, if it is an oversized car, without paying additional space. If we have more than 50 sacks of mail, we have to authorize additional storage space, an emergency unit; of course, in some cases where oversized cars are operated regularly, storage units are authorized in connection with them. The minimum unit of authorization is 3 feet. I think this 30-foot R. P. O. car operated on this particular line is regular. That is, we regularly authorize 15-foot R. P. O. and the railroad furnishes us with a 30-foot R. P. O. apartment, non-standard. It is preferable that the Post Office Department be furnished cars of the size authorized, but they do not enter any objection when oversized cars are operated. (R. 98.)

"'Q. (By Mr. Hitt) What is the advantage, Mr. Fulghum, in having a smaller space? Is it not more advantageous to have more separations and larger space in which to make your separations?

"'A. Because when the authorization is for a 15-foot apartment car unit, very few separations are needed, and a car of larger size just is excess baggage to walk about in.

"'Q. Just a little bit more space, but it does not offer any other disadvantage?

"'A. It does, to some extent, because clerks are required to keep record of all mail that comes in there. They have to keep account of it. That is something else in addition to any number of other things. They have got to keep track of it and a record of the sacks and outside parcel loadings to do it.' (Tes. 9226-9234.)

"In other words, in order to determine if you exceed a storage space of 15 feet, and another thing, in using distribution facilities, you have got to be sure that they confine themselves to 144 letter box separations and 49 paper and pouch separations. They may not use the remainder of the 30-foot car. Asking whether the railway mail service on the Georgia & Florida could be performed in a smaller unit than 15 feet: If there was such a unit, one would be applicable to that line. If there were a 12-foot apartment unit, it could be done in that, because, as I have shown here, the distribution facilities, or storage space used will not average over 50 per cent limit, taking the cars and the maximum volume received on any portion of the line. I cannot answer as to what is carried in the other end of that car; I presume they carry baggage and express, but I am not sure.

"(Statement by Mr. Todd:) On No. 4 and 5 it is just baggage and express." (R. 97, 98.)

It is to be noted that there is not one word of testimony in the extract quoted above to the effect that

the furnishing of the 30-foot apartment unit instead of a 15-foot apartment unit created unused space. The witness said that perhaps a 30-foot apartment was not quite so convenient for the Post Office Department, and that caused a little more work to keep a record of the mail handled, but not a word to the effect that the position of the partition in the car in any way enlarged the quantity of the unused space in the car.

The other end of the car, containing the mail apartment space, is used for baggage and express, and during the test period 43.2 per cent of the space in those 55-foot cars was unused space (R. 7). There was therefore unused space outside of the partition as well as inside. If the baggage and express had been so voluminous that the position of the partition in the 30-foot apartment car had forced the carrying of some of it in other cars in the train, it might then have been said that the position of the partition had an effect upon the quantity of unused space. But there is nothing in the record to indicate that the position of the partition had any such effect upon the waste space. Indeed the very fact that the partitions were allowed to stand unchanged, in itself, demonstrates that the space wasn't needed for other purposes. On the evidence after hearing arguments, the lower court in its second decision quoted with approval its finding in its first decision that—"There is no attack upon the efficiency of the operation of this railroad. There is no charge of extravagance" (R. 56); and also said additionally—"There is no criticism of the 'character of the service performed in connection with transporting the mail'." (R. 57.) (Compare *Winston-Salem Southbound*, 123 I. C. C. 33, where the Commission did find

there was an excessive amount of unused space. See table on page 93 herein.)

This point was fully argued before the lower court, and since this is the only contention which the appellants have advanced, which, if correct, would serve to take anything from the weight of the cost study, there is included herein a diagram which pictorially and mathematically demonstrates the fallacy here involved.

The Lower Court's Considered Conclusion: On this contention, which was fully urged before it, the lower Court said:

> "Further argument of the Commission, as we understand it, is that because 30 feet instead of 15 feet is partitioned off for mail this adds 15 feet to the unused space for which the post office department pays a part. We do not so understand the testimony. Our understanding is that the unused space is the same wherever the partition be placed." (R. 57.)

Even if this fallacy were accepted and adjusted for 100 per cent, it would certainly not be sufficient to justify the discard of the cost study, for, as clearly appears on page 52 of appellants' brief, if the entire 15 feet of unused space in the oversized apartment is eliminated from the unused space charged to the mails, and entirely put over against other passenger services, the operating deficit computed from the studies before the Commission of $4,945.00 becomes an operating income of $1,711.00 similarly computed. It is obvious that even that falls far short of the fair return that

ICC 9200
Georgia & Florida
Argument Exhibit 12
1-9-36

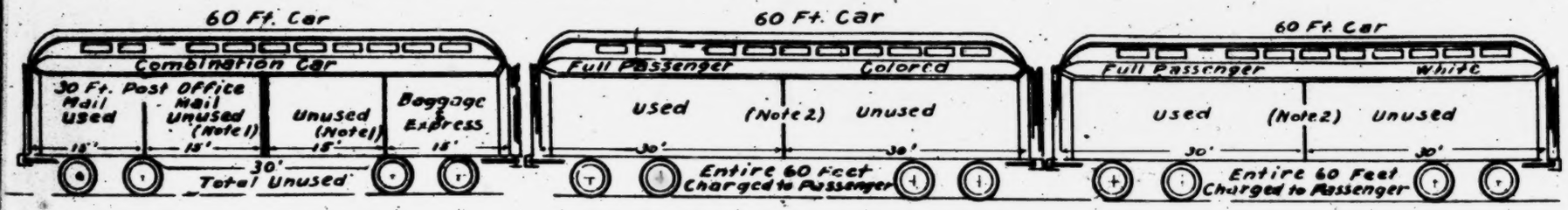
DEPICTING THE PRINCIPLE OF THE APPORTIONMENT OF UNUSED SPACE IN COMBINATION CARS ACCORDING TO THE COMMISSION'S STANDARD BASIS

DEMONSTRATION OF THE "30 FOOT APARTMENT" FALLACY

(Contention on this point was not even raised in the original proceeding and when injected in the re-opened proceeding, serves only to unfairly cloud the issues)

THE PROPORTIONS USED FOR THIS GRAPH ARE NOT ACTUAL

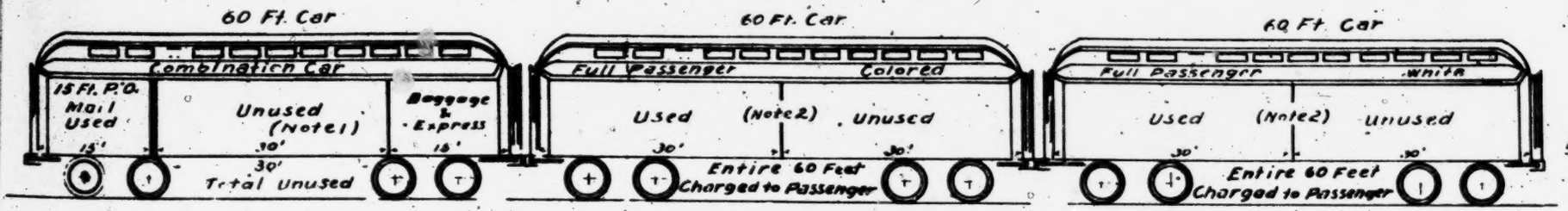
When a 30 Foot Post Office is Furnished on a 15 Foot Authorization



MATHEMATICALLY DEMONSTRATED

1 Combination Car-60 Ft.	Ft.	Percent	
Mail Used	15	8.33⅓	16.66⅔
Mail Unused	15	8.33⅓	
Bag. & Exp. Used	15	8.33⅓	
Bag & Exp Unused	15	8.33⅓	
2 Passenger Cars — 120 Ft.			
Passenger Used	60	33.33⅓	
Passenger Unused	60	33.33⅓	
Total -----	180	100.00	

When a 15 Foot Post Office is Furnished on a 15 Foot Authorization



1 Combination Car-60 Ft.	Ft.	Percent	
Bag & Exp. Used	15	8.33⅓	16.66⅔
Mail Used	15	8.33⅓	
30 Ft. Unused Mail Proportion	15	8.33⅓	
Bag. & Exp. Proportion	15	8.33⅓	
2 Passenger Cars -120 Ft.			
Passenger Used	60	33.33⅓	
Passenger Unused	60	33.33⅓	
Total -----	180	100.00	

*The Mail's Proportion of Total Train Space in each example is exactly the same

(Note 1) No other unused space is charged to Mails

(Note 2) All space in Full Passenger Cars is charged against Passenger Service, even if only partly loaded

(On no day during the Test Period of the Georgia & Florida Railroad was there insufficient space in the Combination Car for Baggage and Express)

THE AMOUNT OF UNUSED SPACE IS THE SAME REGARDLESS OF THE POSITION OF THE PARTITION

The proportion of space chargeable to the Mail is the same (16.66⅔%) regardless of the position of the partitions, for, if the amount of unused space in a combination car was 30 ft. anyhow, obviously it could make no difference if a car with a 30ft. partition was supplied on an authorization for only 15 ft., since the total excess space is just the same

is guaranteed by the Constitution, as correctly pointed out by the court below:

> "We find nothing that warrants any change in our conclusions as to the legality of the order now before us from our previous conclusion as to the same rates except the fact, stated by implication, that the use of a mixed car shorter by 15 feet would result in a profit from mail revenue of $1,711 annually. The report discloses 'The total mail service investment thus derived was $457,082.' This return is approximately .0037 per cent. This is not 'fair and reasonable'." (R. 58.)

And furthermore the appellees invite attention to the fact that the ratio of unoccupied space in *Intermountain and Pacific Coast Lines*, 95 I. C. C. 493 was 69.61% and they were given an increase of 100%, and in the *Winston-Salem Southbound case* the ratio of unoccupied space was 177% and yet they were given an increase of 50%.* The Georgia & Florida's corresponding ratio of unoccupied space in the test period including the 15 feet of unused space in the 30-ft. apartment was only 76%, or less than 6 points greater than those roads which got a 100% increase, and less than half of that for a road which got an increase of 50%.

(5) *Three-foot Closed Pouch Units:* While there was no new evidence upon the point at the second hearing, the appellants attempt to make much of the fact that actual use of the 3-foot closed pouch units was considerably less than the maximum capacity of the author-

* "We do not believe that it is possible to operate without some unused space, but the amount should be kept within reasonable limits. The rates established herein take this into consideration." *Winston-Salem Southbound*, 123 I. C. C. 38, 40.

ized space. This is in spite of the fact that the Commission in both of its reports stated that it is customary in the cost studies in all the mail pay cases for authorized space to be considered as the used space, whether it is fully used or not. The reason for this is explained on page 9 herein. 95 I. C. C. 493,496. The 3-foot space is of course the smallest amount of service which can be authorized. During the test period only 5 per cent of the mail service was in such units, and the Commission pointed out in its first report that:

> "In this instance, probably, *the difference in the result for the test period would not be great because of the small amount of closed-pouch space in relation to the total in the test period.* Applied to operations for a full year, however, the difference probably would be considerable." (R. 9.) (Italics supplied.)

While it is perhaps true, as stated by the Commission, that on a calculation extended to operations for the full year 1931 the difference in the space ratio caused by the failure of the Post Office Department to use the 3-foot units to maximum capacity would be considerable, in its second report upon rehearing the Commission quite left out the fact that during the representative test period the 3-foot closed pouch service had dropped to only 5 per cent of the total mail service (R. 50). (The discontinued mail service and the time of discontinuance is shown on the chart, Exhibit 725, appearing at R. 129.) It is of course the actual condition as correctly represented by the conditions which existed in the test period, namely, when the 3-foot closed pouch units represented only 5 per cent of the mail service, which should have been the basis for any

argument instead of a 27.65 per cent ratio which had ceased to exist.

Therefore, appellants' extended argument on this insignificant detail, even if it were sound, which appellees deny, is obviously insufficient as a justification for the Commission's failure to give weight to a cost study made with an accuracy testified to and agreed upon by witnesses both for the Post Office Department and the carrier, which cost study indicates the need of an approximate increase of 87.40 per cent to yield the railroad the cost of carrying the mail and a fair return upon the property devoted to its transportation.

Furthermore as has already been pointed out herein, a theoretical three-foot unit of closed pouch space authorization is not fixed upon the theory of any minimum quantity, or that maximum use would be made of the entire capacity. It simply represents the smallest unit for any railway mail service at all and that minimum unit was doubtless fixed by the Commission with full appreciation of the fact that in few, if any, instances would the actual service ever be exactly equal to the maximum capacity limit beyond which the Post Office Department would have to make an authorization for a larger unit of space. Nor is that condition peculiar to minimum 3-foot units. Pay for seven feet is required whenever the 3-foot maximum of 56 sacks or the equivalent is exceeded, although the excess might not be more than 5 sacks; and so on up the scale.

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(6) *Speculations v. Test Period Ascertainments:* The appellees freely admit the *theoretical* possi-

bility that the changes in mileage and service which may have occurred since the test period in 1935 might effect a somewhat different result, but as a *practical* proposition the original parties to the cause; i. e., the appellees and the Post Office Department, as already pointed out, are content to rest upon the figures developed by the test period in 1931.

It is just because there are variations in conditions from day to day that the Post Office Department and the appellees in making the test in 1931 subjected the facts of the actual performance to thorough investigation for 28 consecutive days, and the results were adjusted and agreed upon by both parties as being representative of average conditions for an entire year.

Argumentative speculations are entitled to no weight because the effect of one change is likely to offset the effect of some other change, and even if there were any evidence to justify different rates of pay in subsequent years, the duly would still remain on the Commission to decide on the rates of compensation for the period beginning April 1, 1931, on the agreed evidence of the test period at that time.

The fact remains that there is a customary method of working out these cost studies, and the Post Office Department has highly skilled technicians who specialize on same; and who can be relied upon to see that no undue concession is made to the railroads either in conducting the actual test or in working out the results of the tests.

In this case the Department did claim some substantial adjustments of the test period figures to conform to

statistics for a year's operation to which the carrier agreed, and after giving full effect thereto, their own exhibits showed an indicated need of an increase of 87.40 per cent; and furthermore, the expert witness for the Department has in both hearings admitted on examination by his own counsel that this cost study was the most equtable basis he could devise. (R. 96.) (Compare *Olson v. United States*, 292 U. S. 242, 262.)

(7) *Train Lot Comparisons:* Beginning on page 53 of appellants' brief a quotation from the Commission's report upon rehearing is followed by a discussion of the Commission's reasoning. The entire discussion, however, is highly theoretical and contains mathematical computations based upon the premise of how close would the mail come to paying its own way if it were carried in solid trainloads at the present rate of pay. By this mathematical prestidigitation it is made to appear that the carrier gets 1.0297 cents per car-foot mile for authorized mail service as compared with an average computed expense per car-foot mile of only 0.6573 cents based on the total car-foot miles operated in the entire passenger train service. It can be just as easily proved, using one linear foot of car space per passenger, that if a train ran filled to capacity with passengers the railroad would receive 2.8903 cents per car-foot mile for the transportation of each passenger, as compared with the expense per car-foot mile for passenger service as a whole of .6573 cent. (R. 118, Exhibit 765, R. 288.) That whole argument is useless because the Georgia & Florida Railroad does not carry either mail or passengers in full trainloads, and the Court properly rejected it (R. 58).

The appellees respectfully submit that what the appellants argue for and the Commission has done is directly contra to the rule declared in the *Olson case, supra,* that "Elements affecting value that depend upon events or combinations of occurrences which, while within the realm of possibility, are not fairly shown to be reasonably probable, should be excluded from consideration for that would be to allow mere speculation and conjecture to become a guide for the ascertainment of value—a thing to be condemned in business transactions as well as in judicial ascertainment to truth." (292 U. S. 242, 262, 78 L. ed. 1245.)

The Lower Court's Characterization: Having before it the Commission's explanations and arguments orally and by briefs, the lower Court disposed of these speculative arguments (6 and 7) in the following words:

> "Lengthily are theories and possibilities advanced to establish that a different result might be reached if different methods were employed 'to ascertain and compute the proportions of operating expense and the separations into expenses for freight service and passenger service respectively, but there is no justification submitted for abandoning the method employed in making the first report, which was unchallenged as to accuracy and was admitted to have been apportioned' in accordance with the formulas prescribed for Class I roads for the separation of expenses between freight and passenger service." (R. 58.)

D. On the Alleged Insufficiency of the Bill of Complaint

Appellants in their brief (Page 58), under the title "III. The Commission did not commit any error in its

construction of the law as applied to the facts in this case", urge the insufficiency of the pleading in the supplemental petition to support a charge of confiscation. The paragraph quoted from the supplemental bill, which is subdivision (6) of Paragraph IV, reads as follows:

> "(6) The carrying out of said order against petitioners deprives them of their property without due process of law and will take the private property of petitioners for public use without just compensation, in contravention of the Fifth Amendment to the Constitution of the United States." (R. 40.)

Appellants did not argue any such question of pleading before the lower court, and therefore it would seem that they have waived any such question and are precluded from raising it now.

In any event, appellees do not agree that there are not sufficient allegations of fact to support a charge of confiscation. The supplemental bill recites first that the lower court in its first decision found that the rates fixed by the Commission in its first order were confiscatory, and then averred that no evidence was adduced at the rehearing which could change the confiscatory nature of those rates, in spite of which the Commission again ordered the same confiscatory rates, and the rates are still confiscatory (R. 35). If the rates were once confiscatory, and if nothing had happened to change that fact, they would still be confiscatory, and all of that is set out in the bill.

Furthermore, the cases which are cited by appellants do not stand for the proposition that after bill and

answer and proof, a petitioner fails because "the bill of complaint does not show the value of property employed, the expenses of operation, or the return which would be permitted under the rates prescribed:"

Lindheimer v. Illinois Bell Telephone Co., 292 U. S. 151, 78 L. ed. 1182, held that the Illinois Bell Telephone Company simply did not establish by proof *on hearing* that the reduction in its rates would bring about confiscation. *Nothing was said about any alleged defect in pleading.*

In *Louisville & Nashville R. Co. v. Garrett*, 231 U. S. 298, 58 L. ed. 229, there had been no hearing and no proof adduced, and the appeal was merely upon the denial of a motion for an interlocutory injunction. All the case stands for is that to support a motion for a preliminary injunction enough primary facts must be alleged to support a conclusion that confiscation will take place if preliminary relief be not granted. There was nothing in that case to indicate that had the appellant proved the facts of confiscation at a hearing on the merits it would not have been entitled to relief merely because the bill of complaint did not enumerate all of the facts necessary to be proved.

In *Aetna Insurance Co. v. Hyde*, 275 U. S. 440, 72 L. ed. 357, it was held in view of the fact that the bill did not allege any facts to show that certain uniform rates prescribed by the State authorities would result in confiscation, therefore the lower court had been justified in treating the suit as one to obtain a review under the State law.

In *Baltimore & Ohio R. R. Co. v. United States,* 298 U. S. 349, 80 L. ed. 1209, the Court held that the *evidence* was not sufficient to establish with reasonable certainty what had been or would be the cost of the service covered by the divisions, and the decision contains nothing which stands for the proposition that the appellants in that case failed because of any deficiency in the pleadings.

In *San Diego Land & Town Co. v. Jasper et al.,* 189 U. S. 439, it was held that if the plant had been built to a capacity greatly in excess of the needs of the public, the value of that excess plant cost could not be included to prove there was confiscation at the rates allowed, for the proper amount of service needed; and there was nothing in that case to show that it was decided upon any defect in pleading.

In *Smyth v. Ames,* 169 U. S. 466, 546, 547, it is clearly held that the company was entitled to ask for a fair return upon the value of that which it employs for the public convenience *(which is our case),* but nothing is said about any defect in pleading.

In *Public Service Comm. of Montana v. Utilities Co.,* 289 U. S. 130, 77 L. ed. 1080, there is also no reference to any defect in pleading, and it has no relevancy to this case.

It has already been pointed out herein at pages 15 and 45 that upon the Commission's own findings the undisputed evidence on the cost study was that the mail revenue fell short by $4,945 of equalling the per annum cost of the mail service, not including any return

on the property allocated and apportioned to that service, which was shown to be $457,082; and that an increase of $31,227 would be necessary to enable the carrier to earn 5.75 per cent upon that property (R. 7, 8, 29).

E. On the Law of the Case as Established by the Lower Court's First Decision

(Appellants' Assignment of Error No. 5)

The specially-constituted three-judge District Court in its first decision, after stating that no other facts were established or sought to be established than those set forth in the order of the Commission; that the challenge is to the conclusion drawn from undisputed facts; that the facts disclose that for every dollar applicants received for transporting the mail they expended one dollar and 2.79 cents; that there is no attack upon the efficiency of the operation of the railroad and no charge of extravagance; concluded that the bald fact remains that this railroad is required in order to escape severe punishment (39 U. S. C., 563) to transport mail at a compensation fixed by such Commission and that such compensation does not pay the actual cost of the service, this compensation is not in compliance with the duty upon the United States to pay fair and reasonable compensation and is not just and equitable. The court then decreed that the Commission take such further action in the premises as the law requires in view of the annulment and setting aside of the said order of May 10, 1933.

With the benefit of the conclusion of the court upon that undisputed evidence that the rates ordered were

not "just and equitable", the Commission should have then proceeded to a determination of the amount of increases which would, on that evidence, have provided compensation sufficient to comply "with the duty on the United States to pay 'fair and reasonable' compensation." (R. 20.)

Instead, however, it reopened the proceedings for further hearing, and in its second decision and order, which gave no effect to the conclusions of the court and the court's decree thereon, the Commission made a revision of its previous findings of fact without there having been placed before it any substantially new evidence sufficient to have changed the court's determination upon all the undisputed facts in evidence, and reached the same conclusion as it had before. Appellants quote the conclusions from the two Commission decisions as evidence that there was no inconsistency in the Commission's findings, but what they quote are the ultimate conclusions and not the findings of the preliminary facts upon which such conclusions were based.

A careful reading of the two opinions shows that in the first opinion the preliminary findings of facts did not support the conclusion but that this was modified to some extent when the Commission revised its preliminary findings in its second opinion without any effective new evidence before it, and then reached the same conclusion as it had before.

As to the nature, however, of the differences between the two findings of fact, appellees respectfully call attention to what the appellants themselves expressly point out at page 63 of their brief, where one part of

the findings in the first decision was excised from the second decision:

> "The lower court held immaterial what it stated to be 'The fact that this railroad lost more money on other services rendered by it or that other railroads transported mail under similar, if not identical conditions, at a profit.' (R. 56.) The report of Division 5 made some reference to rates paid railroads other than applicant. *The report of the entire Commission, however, on rehearing made no such reference,* but confined its analysis to to the evidence of operations by applicants only."

In view of appellants' own explanations it seems reasonable to assume that the Commission would have appealed from the first decision of the lower court if it had felt it could prevail upon the basis of its own first findings of fact; and that, in substance, it is now relying mainly upon its revised findings of fact.

Upon this situation the lower court held in its sound decision that—

> *"The law as established in this case by the previous decision,* unreversed, makes inapplicable 'comparisons with compensation received from other services in passenger train cars;' 'comparisons with freight rates;' and 'comparisons per car-mile and per car-foot mile of the computed cost of mail service and the revenue from authorized mail service with the computed cost of corresponding units in passenger-train service as a whole'." (R. 57.) (Italics supplied.)

Therefore the appellants are driven to argue that "the court's earlier decision did not establish the law

of the case" (appellants' brief, page 67), but the only cases they cite as authority for that proposition are *United States v. Atlanta, B. & C. Ry. Co.*, 282 U. S. 522, 530, 75 L. ed. 519, and *Atlanta B. & C. Ry. Co. v. U. S.*, 296 U. S. 33, 80 L. ed. 25.

Appellees respectfully submit that in that case the first decision by this Court involved only the question of the jurisdiction of a specially constituted three-judge District Court and it was held that a merely "directory finding" in a Commission report was not an "order" which was reviewable under the Urgent Deficiencies Act, October 22, 1913, chap. 32, 38 Stat. at L. 208, 219. What this Court actually said was—

> "We need not determine whether jurisdiction existed to review the action of April 9, 1928, or the scope of the issues litigated in the original suit. For a finding of jurisdiction to review that order, or acquiescence by the defendants in the decree rendered on the original bill, would not have made *res judicata* the question whether jurisdiction existed to review the later action of October 9, 1929. • • •
>
> "The lack of power to review, because of the absence of any order, cannot be cured by bringing the suit in the form of a supplemental rather than a new bill. Jurisdiction is equally lacking in either case."

The second decision by this Court was the first decision on the merits in those *Atlanta, B. & C. Ry. cases* for the order of the Interstate Commerce Commission sought to be enjoined was the first formal order *requiring* certain accounting procedure to be followed.

Of course a decision of a Court in a matter where it had no jurisdiction to act in the first place cannot determine the law of the case, when such decision is not appealed from. But the converse is equally true, that a court decision which was made in a case within that court's jurisdiction, not appealed from and unreversed, establishes the law of the case. It will doubtless suffice on this point to point out to this Court the following language in its earlier decision in *Grubb v. Public Utilities Commission,* 281 U. S. 470, 479, 74 L. ed. 979:

> "The thing presented for adjudication in the case in the state court was the validity of the order, and it was incumbent on the appellant to present in support of his asserted right of attack every available ground of which he had knowledge. He was not at liberty to prosecute that right by piecemeal, as by presenting a part only of the available grounds and reserving others for another suit, if failing in that. *Werlein v. New Orleans,* 177 U. S. 390, 398, et seq., 44 L. ed. 817, 820, 20 Sup. Ct. Rep. 682; *United States v. California & O. Land Co.,* 192 U. S. 355, 358, 48 L. ed. 476, 478, 24 Sup. Ct. Rep. 266.
>
> "As the ground just described was available but not put forward, the appellant must abide the rule that a judgment upon the merits in one suit is *res judicata* in another where the parties and subject-matter are the same, not only as respects matters actually presented to sustain or defeat the right asserted, but also as respects any other available matter which might have been presented to that end. *Baltimore S.S. Co. v. Phillips,* 274, U. S. 316, 319, 71 L. ed. 1069, 1071, 47 Sup. Ct. Rep. 600; *United States v. Moser,* 266 U. S. 236, 241, 69 L. ed.

262, 264, 45 Sup. Ct. Rep. 66; *Cromwell v. Sac. County*, 94 U. S. 351, 352, 24 L. ed. 195, 197.

"We think it follows from what has been said that the objections taken to the decree below are so unsubstantial that the motion to affirm without awaiting oral argument should be sustained."

F. Additional Considerations Advanced in Appellants' Brief

In addition to the foregoing reasons which were given by the Commission to support its conclusion, the brief for the appellants cited what might be termed two *other considerations*, viz.:

(a) That if the rates were increased the Post Office Department might discontinue using the service (Appellants' brief, page 57).

(b) That if the decision of the Commission was controlled "by the mathematical results obtained in a statistical cost study made according to an agreement between the Post Office Department and the Carrier as to methods and formulas to be applied in connection with it," • • • "the Commission would be deprived of all *real authority* in the performance of its function • • • It would become nothing more than a checker or annotator of the statistics submitted to it" (Appellants' brief, page 37). (Italics supplied.)

(a) *Possible Discontinuance of Service:* At page 37 of appellants' brief the suggestion is thrown out that if the mail pay rates are increased the Department may discontinue the service, but it is sufficient to say on this aspect that Witness Fulgham, after his inspection of the situation, pressed by counsel for the Department at the second hearing to say something to that effect, testified that he had recommended that the service be continued (R. 100, 101).

There is nothing in the record to indicate that where higher rates have been prescribed (see table on page

COMPARISONS WITH RESPECT TO THE WEIGHT GIVEN TO COST STUDIES

On the Same Cost Study Formula This is What Has been Awarded Other Larger and Other Smaller Roads But Has Been Denied the Georgia & Florida Railroad.

Col. 1	Col. 2 Ratio of Mail Space to Total Passenger Space in Trains	Col. 3 Proportion of Unused Space in Combination Cars Charged to Mail	Col. 4 Indicated Per Cent of Increase Needed	Col. 5 Per Cent of Increase Awarded	Col. 6 The Rates Which Resulted (Cents per Mile)
(1) GEORGIA & FLORIDA RAILROAD (Decided May 10, 1933—192 I.C.C. 779)	12.96%	34.76%	87.40%	NONE	14.50
(2) GENERAL CASE (Decided July 10, 1928—144 I.C.C. 675)					
Class I and Class II Roads:					
Trunk Line Systems	8.27%	27.07%	26.61%	15%	14.50
Lines over 100 Miles					14.50
New England Lines	5.83%	(not shown)	33.58%	15%	19.50
Class II and Class III Roads:					
Lines under 100—over 50 Miles	7.76%	(not shown)	91.00%	80%	14.50
Lines under 50 Miles					34.00
(3) INTERMOUNTAIN AND PACIFIC COAST LINES (Decided Jan. 22, 1925—95 I.C.C. 493; Jan. 5, 1927—120 I.C.C. 439, and Feb. 9, 1929—151 I.C.C. 734)					
Class II and Class III Roads:					
Lines over 100 Miles (95 I.C.C. 493)	9.65%	28.31%	(not shown)	100%	25.00
Lines under 100—over 50 Miles					30.00
Lines under 50 Miles					37.50
Class I Road: Denver & Salt Lake Railroad (232 Miles)—151 I.C.C. 374)	14.70%	43.99%	68.00%	60%	20.00
(4) ELECTRIC LINES—GENERAL (Decided June 2, 1925—58 I.C.C. 455)	(not shown)	(not shown)	(not shown)	(not shown)	30.00
(5) ALABAMA, TENNESSEE & NORTHERN —(186 MILES) (CLASS II ROAD) (Decided April 24, 1926—112 I.C.C. 151)	16.13%	31.29%	134.30%	100%	25.00
(6) WINSTON-SALEM SOUTHBOUND—(90 MILES)—(SUBSIDIARY OF ATLANTIC COAST LINE AND NORFOLK & WESTERN) (CLASS II ROAD) (Decided March 2, 1927—123 I.C.C. 33)	13.17%	68.27%	146.70%	50%	18.75

93) the Post Office Department has discontinued the service. The Department's first interest is to give proper service to the public, and there is nothing in their attitude which indicates that they resent or would vindictively retaliate against the carrier's efforts to obtain adequate compensation.

Be that as it may, the appellees respectfully submit that consideration obviously is not one which warrants discounting any of the evidence.

There is a comparison attempted between the cost of railway and highway transportation in footnote on page 57 of appellants' brief but that is entirely irrelevant because the service furnished by the railroad was that of a travelling postoffice, with clerk, and no service corresponding to it is supplied by a "star route", and total unlikes are not comparable.

(b) *Effect on the Commission's "Real Authority":* The appellees respectfully submit that they are entitled to a decision on the evidence, and not upon any fancied apprehensions as to the extent, if any, to which the Commission's "real authority" might be affected if required to follow the evidence (appellants' brief, page 37).

Appellees only ask that the Georgia & Florida be paid sufficient compensation to cover the cost of carrying the mail, plus a fair return upon the property used in such transportation, as computed from the cost study upon methods which have been upheld by the Commission in all of its previous mail pay decisions, which come the closest that is possible to an accurate cost determination. The Post Office Department accepts those rules as the best basis that the Commission has

been able to devise for their own purposes, and the witness for the Department said that he had never been able to devise any better basis, and that the Post Office Department has never made any attack upon the fairness of that basis (R. 95; Appellants' brief, page 31).

What the carrier does object to is after faithfully following all of the methods and accounting rules laid down by the Interstate Commerce Commission (Appellants' brief, page 31), and after adjusting 100 per cent for every conceivable error, when the result shows that the carrier is entitled to an increase of 87.40 per cent, to then have the Commission give same no weight and say, in effect, that the rules are not exact, so they need not give any credence to the result. This is a denial of due process (*Chicago Junction Railways case*,

The Commission admitted, as it must, in its first decision that many of these other roads with which the Georgia & Florida was classed "are very much larger and have greater traffic and lower unit operating costs" (R. 10). That fact was very graphically shown in Exhibit 748 (R. 254) by the following table of the mileage and earnings for 1931 of the Georgia & Florida as compared with some of those great systems:

	YEAR 1931		
	Average Miles of Road	Railway Operating Revenue	
Name of Railroad	Operated	Total	Per Mile
Georgia & Florida	463.61	$1,357,711	$2,928.56
Baltimore & Ohio	5,645.06	158,474,628	28,073.15
Boston & Maine	2,089.71	57,784,978	27,652.15
Chesapeake & Ohio	3,115.20	119,552,170	38,336.43
Erie	2,316.03	90,153,602	38,925.90
Lehigh Valley	1,361.72	50,024,627	36,736.35
New York Central	11,388.48	382,190,183	33,559.37
New York, N. H. & H.	2,098.88	100,331,094	47,802.21
Norfolk & Western	2,259.46	79,854,748	35,342.40
Pennsylvania	10,897.88	448,090,279	40,862.22
Reading	1,456.99	70,614,089	48,465.73
Total, Year 1931	42,629.41	$1,557,070,398	$36,525.73 (Av.)

It is self-obvious that the conclusion is necessarily an arbitrary one when the Commission finds that the rates which are just and reasonable for those great systems are also reasonable for the Georgia & Florida.

As a further check on the fact that the Commission's conclusions were contrary to the evidence, attention is invited to the table on ~~the opposite page~~ 93, comparing the conclusions reached in other cases with the conclusion in this instance.

That in other instances the Commission has paid regard to the per cent of increase indicated to be needed (by the same cost formula) is shown by the relation between Column 4—the per cent of increase indicated to be needed to pay the mail's proportion of operating expenses and 5¾ per cent return on property devoted to the mail service, and Column 5—the per cent of increase awarded.

What else could be the reason for denying the same weight to the Post Office Department's cost study on the Georgia & Florida:

(1) It cannot be because the same cost study formula is any less certain than on even smaller roads, which on a showing of 91% (Col. 4) needed they were granted an increase of 80% (Col. 5).

(2) It cannot be because the ratio of mail space to total passenger space of 12.96% (Col. 2) on the Georgia & Florida was excessive since the Alabama, Tennessee & Northern ratio was 16.13% (Col. 2) and it was given an increase of 100% (Col. 5).

(3) It cannot be because this carrier's ratio of mail space of 12.96% (Col. 2) was sub-normal since the Intermountain and Pacific Coast Lines with a ratio of 9.65% (Col. 2) were also given an increase of 100%.

(4) It cannot be because the mail's proportion of unused space in combination cars on this carrier of 34.76% (Col. 3) is excessive in view of the fact that the Denver & Salt Lake Railroad had a corresponding proportion of 43.99% (Col. 3) and was awarded an increase of 50% (Col. 6), and the Winston-Salem Southbound, with a similar proportion of 68.27% (Col. 3), was given an increase of 50%.

(5) It cannot be because the mail's proportion of unused space on this carrier of 34.76% (Col. 3) was sub-normal in view of the fact that the Alabama, Tennessee & Northern with a proportion of 31.29% (Col. 3) was awarded an increase of 100% (Col. 6).

CONCLUSION

In conclusion the appellees respectfully refer to the suggestion on pages 13 and 15 of the appellants' brief, that in the absence of any specific finding by the courts as to at least the minimum compensation which would be justified on the evidence the Commission will apparently feel itself at liberty to shunt the proceedings back and forth indefinitely:

If the Commission's position on that proposition has any justification it would extend as much to this Court

as to the lower court, and certainly the appellees are most anxious to receive the much needed benefit of the increases to which they believe they are entitled.

The appellees respectfully submit that on the undisputed evidence, after making all the adjustments claimed by the Post Office Department they are entitled to an increase of 87.40 per cent in their mail pay rates in order to derive the compensation which it is the duty of the United States to pay; and

THEREFORE the appellees respectfully pray that if this Court is convinced of the merit of their cause, that the Court will either (1) affirm the judgment of the court below and include in its opinion and decree a finding as to the minimum increase to which the appellees are entitled on the evidence, or (2) remand the cause to the lower court with directions to make such a decree.

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No. 63

IN THE

Supreme Court of the United States

October Term, 1937

THE UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, Appellants

v.

W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD, Appellees

Appeal from the District Court of the United States for the Southern District of Georgia

SUPPLEMENTAL BRIEF ON BEHALF OF W. V. GRIFFIN AND H. W. PURVIS, RECEIVERS FOR GEORGIA & FLORIDA RAILROAD

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On December 13, 1937, this Court held that it had jurisdiction of the appeal in the above entitled cause and ordered a reargument on the merits. Appellees interpret the Court's order to mean that the specially constituted District Court likewise had jurisdiction; otherwise the scope of this Court's jurisdiction would not extend to the merits of the case, but only for the purpose of reversing the decree below with directions

to dismiss, *Stratton* v. *St. Louis Southwestern Ry. Co.*, 282 U. S. 10.

Under this order therefore a railroad, aggrieved by an order of the Interstate Commerce Commission fixing rates for the transportation of mail, may bring suit under the Urgent Deficiencies Act to set aside the Commission's order, upon the record made before that administrative agency. Hence it becomes pertinent to inquire into (1) what is the nature of the functions of the Interstate Commerce Commission in mail pay cases and (2) what is the scope of judicial review which the courts may exercise in passing on the validity of the Commission's orders?

1. Nature of Commission's Function in Mail Pay Cases

In fixing mail pay rates the Commission is not acting in the legislative capacity of *regulating* the ordinary freight and passenger rates, but is acting in the capacity of an agent of the Government which is charged with the duty of ascertaining the reasonable value of a service requisitioned by the Government for which there is a duty on the Government to pay just compensation. It acts in a capacity analogous to that in which the Secretary of War or the Secretary of the Navy acts under special statutes in the taking of private property for public use, by which statutes they are authorized to ascertain the fair market value of the property.

While in undertaking to determine the reasonable value of the mail service the Commission will act in

what it conceives to be a judicious and impartial manner, nevertheless the Commission is an administrative agent of the very Government which takes the property or services for public use. In this view it is understandable why, despite the evidence showing that anything less than an increase of 87.40% would result in confiscation, the Commission felt at liberty to balance the inescapable result against considerations not supported by evidence in the record, and to deny any increase.

2. Scope of Judicial Review in Mail Pay Cases

This proceeding, being to ascertain and fix the compensation for a taking by the Government, is in the nature of a condemnation proceeding, and the rules of law limiting the scope of judicial review over ordinary administrative action are inapplicable. The appellees are entitled to a judicial determination of the value of the property taken, both on questions of law and on questions of fact.

(a) The findings of the Commission as to facts cannot be regarded as conclusive, because that would not afford the owner of the property a full and adequate judicial determination of the value of the property taken. This is not a case where it is the Commission's duty to make quasi-legislative findings, but more in the nature of quasi-judicial findings. Under Section 16 of the Interstate Commerce Act, dealing with reparation orders, where the Commission makes quasi-judicial findings between adversary parties, those findings are by statute made *prima-facie* evidence. Here we have a quasi-judicial proceeding,

where the findings are upon a judicial question made by a agent of one of the parties to the controversy. It stands to reason that in such cases it is competent for the courts to weigh the evidence in the record before adopting the Commission's findings.

(b) Nor is the rule applicable here that a court may not fix rates and thus substitute its judgment for that of the Commission. The cases cited by the appellants in support of their Assignment of Error No. 3 are cases where the rate-making was a legislative function, and, of course, it is not within the constitutional power of a federal court to act in a legislative capacity. Here the determination of the rate is a determination of the value of property or service taken for public use. It being a judicial determination, it is competent for a court to find that anything below a given amount would be unfair or unreasonable or even to find that the railroad is entitled to given rates sufficient to produce adequate compensation.

3. Carrier Entitled to Rates Yielding Just Compensation

With these propositions in view, the next question arises whether the rates fixed by the Commission are fair and reasonable. It is evident that the Commission does not squarely contend that the rates established in 1928 are applicable to the appellees because they are the same rates as were fixed for other carriers. Indeed the Commission admits in theory that the appellees are entitled to an increase if the existing rates will result in confiscation as to the appellees themselves.

(Appellant's Brief, pp. 11, 65.) The basic question, then resolves itself into one of fact. What does the evidence in the record show? Appellees believe they have demonstrated in their main brief that upon the evidence they are entitled to an increase of 87.4 per cent.

4. Disposition to be Made of this Case

The last question then arises: What disposition should be made of the case, should this Court find that the court below was right in setting aside the order of the Commission? This controversy has been twice before the Commission and twice before the District Court, and in both instances the District Court avoided making the final finding as to what would constitute a reasonable rate, on the assumption that it had no authority to fix the rates of compensation, and on that theory remanded the cause to the Commission for further proceedings. (R. 30, R. 58.) The Commission, adopting the view that the Court had no authority to fix the compensation, considers the possibility of such cause oscillating indefinitely between the Courts and the Commission. Counsel for appellants say (Appellants' Brief p. 15.):

> "• • • It is interesting to consider whether such shunting of the proceedings between Commission and Court must continue indefinitely until at some time in the future the Commission fixes a rate satisfactory both to the carrier and to the court; if such process can be followed, it would appear that the court is indirectly, but none the less effectively, fixing the rates of mail pay despite its statement that it 'has not the authority to fix the compensation.'" (R. 30.)

Appellees respectfully submit, as indicated above, that the court below was mistaken in the view that it had no authority to fix the compensation. Aside from that, it is to the interest of the parties hereto, and it is in the public interest, that an end be put to this litigation. This Court, if it finds that upon the record the existing rates are confiscatory, can resort to one of two methods of disposing of the case:

(1) It can vacate the order of the District Court and remand the cause with directions to make the findings that anything less than an increase of 87.4 per cent would result in confiscation or that appellees are entitled to rates which will provide an increase of 87.4 per cent, or

(2) This Court may, following its decision in *Los Angeles Gas & Electric Corporation* v. *Railroad Commission of California*, 289 U. S. 287, 77 L. ed. 1180, make its own findings as to facts, and, upon those findings, affirm the decree order of the District Court.

We submit that, in view of the state of the record, the first method will serve no useful purpose. Assuming that this Court will make its own findings, we propose the following as the findings as to the facts in this case:

Proposed Findings as to Facts

I.

By the Railway Mail Pay Act of July 28, 1916 (39 U.S.C. 541), the railroads are required to render

railway mail service at fair and reasonable rates to be determined by the Interstate Commerce Commission. The Act further provides that upon the expiration of six months after an order fixing such rates either the Postmaster General or the carrier may apply for a redetermination of the rates. (*U. S.* v. *New York Central*, 279 U. S. 73, 79.)

II.

Railway mail service required by the Post Office Department is of two distant types: (a) railway postoffices with clerks and (b) storage and closed pouch without clerks. By order of the Interstate Commerce Commission dated December 23, 1919 (56 I.C.C. 1), both types of service are measured and paid for upon a space basis.

III.

In 1928 the Interstate Commerce Commission, upon investigation and cost studies submitted, made an order fixing the rates for the above two types of service, in so far as they are applicable to this case, as follows: (a) For the 15-foot postoffice in a combination car the rate of pay prescribed for all railroads over 100 miles in length, *as a class*, was 14.5 cents per mile; for railroads less than 100 miles, but more than 50 miles in length, *as a class*, the rate prescribed was 27 cents per mile; and for railroads less than 50 miles in length, *as a class*, the rate prescribed was 34 cents per mile. (b) For the closed pouch service the rate of pay prescribed for all railroads over 100 miles in length, *as a class*, was 4.5 cents per mile; for railroads

less than 100 miles, but more than 50 miles in length, *as a class,* was 8 cents per mile; and for all railroads less than 50 miles in length, *as a class,* the rate was 10 cents a mile (144 I.C.C. 675, 718.)

There were some exceptions where the rates were higher for some railroads than for others in the same class.

The rates so prescribed were based upon findings as to the average cost of transporting the mails on all railroads throughout the United States which were covered in that decision.

IV.

The plaintiffs are Receivers of the Georgia & Florida Railroad operating between a point in South Carolina and a point in Florida, traversing a large section of eastern Georgia. (R.289, *Georgia & Florida Reconstruction Loan* 184 I.C.C. 332, 340.) Prior to the proceedings here in issue the rates prescribed for the Georgia & Florida were those fixed by the Commission for railroads over 100 miles in length, *as a class,* namely, (a) 14.5 cents per mile for the 15-foot travelling postoffice service and (b) 4.5 cents per mile for the closed pouch service. (R. 6, R. 10, R. 51.)

V.

On April 1, 1931, the plaintiffs filed a petition with the Interstate Commerce Commission for a separate reexamination and increase in rates of compensation for the mail service required of it by the Government

on and after that date. (R. 21. *U. S.* v. *New York Central*, 279 U. S. 73.)

VI.

Pursuant to precedent, the Post Office Department and the Railroad entered upon a cooperative cost study, upon the standard basis followed and approved by the Commission in all mail pay cases, for the ascertainment of the proportionate part of the expense of railway operation which is properly chargeable to the mail service, and also the proportionate part of railway property used for transportation of the mails. (R. 6, R. 48.)

VII.

A representative test period was agreed upon by the carrier and the Post Office Department, and a space test was conducted on the Georgia & Florida *only* for a period of 28 days extending from September 28 to October 25, 1931, inclusive, under the supervision and direction of a representative of the Post Office Department. (R. 94.)

VIII.

The separations of operating expenses between freight and passenger services were made pursuant to the obligatory rules of the Commission prescribed under Section 20 of the Interstate Commerce Act (R. 258.)

IX.

There were no controversies or disputes between the Post Office Department and the carrier upon any of the figures of the test period. (R. 96.) The Department made a calculation to check the number of car-miles in the test period against the carrier's total car-miles for the entire year, and discovered that the number of car-miles for the test period did not represent 28/365ths of the total number of car-miles actually operated during the year, because the carrier had ceased operating certain of its trains in the early part of 1931, and the mail service formerly carried on those trains had, of course, been discontinued. When the Post Office Department and the carrier came to apply the results of the test period to the full year it was agreed between the parties before the Commission that adjustments be made because of the change in the train service and the elimination of some of the authorized mail routes (R. 122, 123.)

All of the operating and financial statistics were checked by the Post Office Department and the carrier and were agreed upon. (R. 96.)

X.

Pursuant to the rule established by the Commission and always followed, the space in the combination cars in which the mail service is rendered was distributed among the various kinds of passenger service in accordance with what is known as Plan 2 (R. 6, R. 292.) Under said Plan 2, all cars employed exclusively for one service are referred to as full cars, whether loaded or not, and the entire operation of each is allocated

to the service to which it is assigned. The space in combination and mixed cars is allocated to each service according to the space used, except that space authorized for mail is regarded as space used. The unused space in such combination or mixed cars, and that unused space only, is apportioned in proportion to the space used. (R. 6, 7, R. 292, Appellants' Brief, page 32.)

XI.

Substantially all of the evidence in the first hearing consisted of or related to the cost study made on the customary standard basis (R. 6), upon which, after consenting to all adjustments advanced by the Post Office Department, the parties were agreed. (R. 96.) "No other facts were established or sought to be established than those set forth in said order of said Commission * * * the challenge is to the conclusion drawn from the undisputed facts." (R. 29, R. 55.)

XII.

While the Commission did not make separate "Findings of Fact", it embodied the following findings in its report, dated May 10, 1933, applying the results of the cost study by the use of the Plan 2 method to operations for the year 1931:

(a) For the year ended December 31, 1931, the total operating expenses, railway tax accruals, net equipment and joint facility rents were $1,449,801.00;

(b) For the year 1931 the total of operating expenses, railway tax accruals, net equipment and joint

facility rents apportioned to mail was $40,673.00;

(c) The computed deficit in net railway operating income from mail was $4,945.00, representing the excess of apportioned operating expenses over the total mail pay received for the calendar year 1931 of $35,728.00, exclusive of $979.00 for services in motor cars;

(d) The total investment in road, excluding unrelated items was $15,864,462.00. Of this total investment the amount apportioned to mail upon the adjusted space ratio was $438,803.00. The total investment in equipment, less depreciation, allocated to passenger train service, was $135,257.00. Of this amount $18,279.00 was allocated and apportioned to mail service. The total investment in road and equipment allocated and apportioned to mail was $457,082.00;

(e) A return upon this $457.082.00 of investment computed at 5.75 per cent is $26,282.00;

(f) To pay operating expenses apportioned to the mail service and a return of 5.75 per cent upon the investment apportioned to mail service for the year 1931 would require an increase in compensation of $31,227.00;

(g) This increase is the equivalent of an 87.40 per cent increase over the compensation for carrying the mail received by the carrier in 1931. (R. 6, 7.)

XIII.

The Commission concluded, contrary to its findings

of fact stated above in paragraph XII that the rates of pay being received by this carrier for the transportation of mail established in 1928 (*Railway Mail Pay*, 144 I.C.C. 675) for railroads over 100 miles in length, *as a class*, were fair and reasonable for this carrier and denied the application for increased compensation. (R. 10, R. 254.)

XIV.

The plaintiffs filed their petition in United States District Court for the Southern District of Georgia on March 3, 1934, for an order setting aside and annulling the Commission's order of May 10, 1933, fixing its compensation for carrying mail at the same rate as already being received by the carrier under the rates established for lines over 100 miles in length by the order of 1928. (R. 1.)

XV.

No other facts were established or sought to be established before the District Court than those set forth in the report of the Commission. (R. 29, R. 55.) The District Court adopted the findings of fact of the Commission, but held that, upon the Commission's own findings, the Commission's conclusion that existing rates of mail pay were fair and reasonable was errorneous. (R. 30.) The District Court set aside and annulled the Commission's order, and remanded the case for further proceedings.

XVI.

The Commission re-opened the proceedings for

further hearing on March 12, 1935, and at such further hearing additional evidence was presented. (R. 32.)

XVII

The Commission in its second report dated February 4, 1936, reiterated the findings made in its first report and set forth in pargraph XII hereof. The Commission, however, stated its reasons for again reaching the conclusion that the 1928 rates were fair and reasonable as applied to this carrier. (R. 47.)

XVIII.

The plaintiffs filed a supplemental bill on June 30, 1936 (R. 31, R. 1.), seeking to set aside and annul said second order of the Commission. (R. 35.)

XIX.

The District Court granted the relief sought by the plaintiffs and again remanded the cause to the Commission for further proceedings. (R. 55.)

XX.

From the decree entered by the District Court, the United States and the Interstate Commerce Commission prosecuted this appeal. (R. 305.)

XXI.

The findings of the Commission set forth in paragraph XII hereof, being supported by evidence, and having been twice adopted by the District Court, are now adopted by this Court.

XXII.

The findings set forth in paragraph XII hereof support the conclusion that any rate less than an 87.40 per cent increase over the existing rates results in confiscation, and that the plaintiffs are entitled to have their rates of pay increased by 87.40 per cent, unless the reasons given by the Commission for the contrary conclusion it reached are supported by findings and evidence and the District Court erred in overruling the Commission.

XXIII.

Combining both its first and second decisions, the Commission assigns seven reasons for denying any increase to this railroad and for holding it to the rates of mail pay heretofore prescribed, viz., that:

1. "The cost computed in the manner described is a hypothetical cost and not an actual cost, and is not necessarily conclusive as applicant contends" (R. 44). * * * "The method by which total expense for passenger-train service was computed also results in a hypothetical and not an actual cost" (R. 46).

2. "Applicant receives the same rates as those received by other roads for the same kind of service" (R. 9, 10.)

3. "A comparison of revenue received by applicant from the three services rendered in passenger-train service shows that the mail service pays considerably more for equivalent units of service than passenger proper, or express" (R. 48).

4. "In the space study the extra 15 feet of space was added to unoccupied space in the combination car • • • It results in the operation of an amount of unused space equal to the authorized 15-foot apartment and thus increases the amount of space and the expense apportioned to mail" (R. 45).

5. "If adjustment in the computed data were made to reflect the actual use of the 3-foot units, the actual car-foot miles of mail service probably would be less than the authorized and the unit revenue per car-foot mile from mail would be somewhat greater" (R. 50).

6. "The average revenue per car-foot mile of authorized mail service was 1.0297 cents which was 56 per cent in excess of the average computed expense for passenger-train service as a whole for all space operated" (R. 49).

7. "The methods used in this, as in all prior railway-mail proceedings, to ascertain and compute the proportions of operating expense and the separations into expenses for freight service and passenger service, respectively, show that the portion assigned to either service may change due solely to changes in the other." (R. 48.)

XXIV.

1. Probative Value of Cost Study

As to the first reason assigned by the Commission, the District Court held: "Neither applicant nor

this Court entertains the view that the hypothetical cost is 'necessarily conclusive.' It is merely the fairest method that has been devised. If 'actual cost' as to each item be required applicants would be helpless and the Commission would be reduced to guessing. What elements may have been persuasive 'In other mail proceedings' are not necessarily to be considered here, and should not be in the absence of supporting testimony and some indication as to what weight was given each element."

This Court concurs in this holding and further finds that this reason assigned by the Commission appears merely as an after-thought. Instead of treating this method as hypothetical, the Commission treated it in its first report as an appproximation of costs. Furthermore, this method of determining costs had been adopted and followed by the Commission in previous proceedings of this character. (*New England Railway Mail Pay*, 85 I.C.C. 157, 179; *Railway Mail Pay of Woodstock Railway Company and White River Railroad Company*, 96 I.C.C. 43, 46; *Winston-Salem Southbound Railway Mail Pay*, 123 I.C.C. 33, 40; *Railway Mail Pay*, 144 I.C.C. 675, 691.) In this case, as in all similar proceedings. "it is approximate correctness that is required and not mathematical exactitude." *Baltimore & Ohio Railroad Company* v. *United States*, 298 U. S. 349, 378.

2. Comparisons with Other Railroads

The second reason assigned by the Commisison the District Court held was irrelevant:

"The fact that this railroad lost more money on other services rendered by it or that other railroads transported mail under similar, if not identical conditions, at a profit or that this railroad belonged in a certain classification established by such Commission, known as Class 1 railroads and that therefore it should be in accord with other railroads of such Class as to compensation as to mail, do not refute or impair the fact that the compensation allowed this railroad for the transportation of mail does not equal the cost of doing so." (R. 30.)

This Court agrees with the District Court.

3. Comparisons with Other Services of this Carrier

The answer of the District Court to this reason is embraced in the above quoted answer to the second reason. In its second opinion the District Court added:

"The law as established in this case by the previous decision, unreversed, makes inapplicable 'comparisons with compensation received from other services in passenger train cars;' 'comparisons with freight rates;' and 'comparisons per car-mile and per car-foot mile of the computed cost of mail service and the revenue from authorized mail service with the computed cost of corresponding units in passenger-train service as a whole.'" (R. 57.)

4. Use of Thirty Foot Compartments

In answer to the fourth reason the District Court said:

"Further argument of the Commission, as we understand it, is that because 30 feet instead of 15 feet is partitioned off for mail this adds 15 feet to the unused space for which the Post Office Department pays a part. We do not so understand the testimony. Our understanding is that the unused space is the same wherever the partition be placed.

"There is however this further finding of fact implied, though not definitely stated, viz: that an unnecessarily large car is used and this adds to the portion paid by the mail for unused space and that if 15 feet were eliminated from the car the mail space ratio would be reduced to 10.79 per cent, resulting in a profit to applicant from mail of $1,711." (R. 57, 58.)

In other words, this reason, if it were a finding supported by evidence, might lead to the conclusion that while the existing rate is confiscatory, the carrier may not be entitled to an increase of 87.40 per cent. This Court holds that findings must be express and cannot be supplied by implication. (*Atchison, Topeka & Santa Fe Ry. Co.* v. *United States*, 295 U. S. 193, 202.) Assuming, however, that the finding was express, there is no evidence in the record to support such a finding. The record shows on one occasion, March 14, 1935, several years subsequent to the period when the cost study was made in 1931, a 30-foot apartment car was being operated on an authorization for only 15 feet of railway postoffice (R. 258), but there is nothing in the record to show that this was the fact in 1931, or, if it had been so, that such a fact would operate in any way to increase the amount of space chargeable to the mail in the cost study.

5. Maximun Use of Space Units

The fifth reason is negatived by the Commission's own finding that "the difference in the result of the test period would not be great because of the small amount of closed pouch space in relation to the total in the test period" (R. 9). The Record shows that only five per cent of the total mail service rendered by this carrier was in 3-foot closed pouch units (R. 50). Furthermore, the reason assigned by the Commission is predicated on the assumption that each 3-foot space unit would be loaded to its maximum capacity of 56 sacks (R. 47-8). That would be most extraordinary; at any rate there is nothing in the record to show, and the Commission does not find, that when the Commission prescribed the 3-foot unit as the smallest authorized unit it was predicated upon the theory that it would always be used to full capacity. Nor is that condition peculiar to minimum 3-foot units. Pay for seven feet is required whenever the 3-foot maximum of 56 sacks or the equivalent is exceeded. (*Railway Mail Pay,* 56 I.C.C. 1; *Railway Mail Pay,* 95 I.C.C. 493, 496.) The record does show that during the test period the number of sacks or equivalent in packages handled in the 3-foot closed pouch units was substantially less than that quantity (R. 47-8).

6. Elimination of all Unused Space

The record contains an exhibit in which a computation is made to show that if no unoccupied space was charged to mail the revenue per car-foot mile upon the

number of feet of authorized space would more clearly approach the amount needed to pay the expense of and a return upon the property used in railway mail service. (R. 287.)

There is also a counter exhibit showing that, on the same theory, if all unoccupied space was likewise eliminated from other passenger services, the revenue per car-foot mile from other passenger services would be greatly in excess of the revenue per car-foot mile from mail services. (R. 288.)

The District Court correctly rejected this reason assigned by the Commission, saying:

> "Lengthily are theories and possibilities advanced to establish that a different result might be reached if different methods were employed 'to ascertain and compute the proportions of operating expense and the separations into expenses for freight service and passenger service respectively, but there is no justification submitted for abandoning the method employed in making the first report, which was unchallenged as to accuracy and was admitted to have been apportioned' in accordance with the formulas prescribed for Class I roads for the separation of expenses between freight and passenger services.
>
> "The second report not only does not contradict this but reaffirms it in this language: 'The methods are the same as those prescribed in our rules governing separation of such expenses on large steam railroads.'" (R. 58.)

Furthermore, as already shown in the answer to the first reason, the method of making the cost ascertain-

ment in this case is the same which has been followed by the Commission in all previous cases; and, as shown in paragraph X hereof, particularly is this true of the method for the distribution of unoccupied space between mail service and other passenger services. (R. 6, 7, *Railway Mail Pay*, 144 I.C.C. 675, 681.)

7. Effect of Possible Future Changes

The answer of the District Court to the sixth reason applies equally to the seventh reason assigned by the Commission. Furthermore, there is nothing in the record to show what would be the result of a change either way in the use of space by any of the different services, while the record does show that a period for the test was selected by the parties as being fairly representative of actual conditions, and nothing appears in the record to indicate that either party is unwilling to consider that test as fairly representative then or now (R. 48, 96). If and when substantial changes take place so as to warrant either the Postmaster General or the carrier to apply for a reexamination and redetermination of any mail rate, the statute provides such remedy to be availed of at any time after the expiration of six months from the previous rate determination.

XXV.

None of the reasons stated by the Commission for disregarding the findings contained in paragraph XII hereof are sufficient in law or in fact. This Court, therefore, finds that this carrier is entitled to an in-

crease of its mail pay rates by 87.40 per cent to insure fair and reasonable compensation, and that any rates below such increase of 87.40 per cent results in confiscation.

Respectfully submitted,

January 3, 1938.

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SUPREME COURT OF THE UNITED STATES.

No. 63.—October Term, 1937.

The United States, et al., Appellants, *vs.* W. V. Griffin, et al., Receivers.	Appeal from the District Court of the United States for the Southern District of Georgia.

[February 28, 1938.]

Mr. Justice Brandeis delivered the opinion of the Court.

The sole question requiring decision is one of statutory construction: The Railway Mail Pay Act of July 28, 1916, c. 261, § 5, 39 Stat. 412, 425, 430, provides that the Interstate Commerce Commission "shall establish by order a fair, reasonable rate or compensation to be received" by railroads for carrying the mail;[1] and authorizes the Commission to modify the order upon a "re-examination." The Urgent Deficiencies Act of October 22, 1913, c. 32, 38 Stat. 208, 219, 220 (amending Act of June 18, 1910, c. 309, 36 Stat. 539) declares that district courts shall have jurisdiction "of cases brought to enjoin, set aside, annul or suspend in whole or in part any order of the Interstate Commerce Commission." May suit be brought under the Urgent Deficiencies Act to set aside an order refusing, upon "re-examination", to increase the allowance for railway mail compensation theretofore made to this carrier?

The suit was brought, under the Urgent Deficiencies Act, in the federal court for southern Georgia, by the receivers of the Georgia & Florida Railroad against the United States and the Interstate Commerce Commission, to set aside an order made May 10, 1933,

[1] "The Postmaster General is authorized and directed to adjust the compensation to be paid to railroad companies for the transportation and handling of the mails and furnishing facilities and services in conjunction therewith upon the conditions and the rates hereinafter provided." (39 U. S. C. § 523.)

"All railway common carriers are hereby required to transport such mail matter as may be offered for transportation by the United States in the manner, under the conditions, and with the service prescribed by the Postmaster General and shall be entitled to receive fair and reasonable compensation for such transportation and for the service connected therewith." (39 U. S. C. § 541.)

under the Railway Mail Pay Act, *Railway Mail Pay, Georgia & Florida R. R.*, 192 I. C. C. 779; and to grant a permanent injunction. By that order the Commission had denied upon a "re-examination" an application further to increase the compensation allowed by the order of July 10, 1928. *Railway Mail Pay*, 144 I. C. C. 675. The 1928 order had, upon a "re-examination", increased the compensation originally fixed by order of December 23, 1919. *Railway Mail Pay*, 56 I. C. C. 1. As grounds for setting aside the order of May 10, 1933, the receivers alleged, among other things, that the order was unlawful, because the finding that the existing rates were fair and reasonable was without evidence to support it and contrary to the evidence and that the order will violate the Fifth Amendment by taking property without just compensation.

The jursdiction of the court was not challenged; and the case was heard by three judges on the merits. A decree was rendered setting aside as unlawful the order of May 10, 1933, and directing the Commission to take further action. Additional hearings were then had by the Commission; and on February 4, 1936, it again declined to order any increase over that which had been allowed July 10, 1928. *Railway Mail Pay, Georgia & Florida R. R.*, 214 I. C. C. 66. The last order of the Commission was assailed by a supplemental bill on the same grounds as that assailed in the original bill. The jurisdiction of the court was not challenged; the case was again heard on the merits by three judges; and a decree was entered setting aside the order of February 4, 1936, and directing the Commission to take "such further action in the premises as the law requires in view of the annulment and setting aside of" the order.

From that decree the United States and the Interstate Commerce Commission have appealed to this Court. Here, although answering to the merits, they challenged the jurisdiction of the District Court. Since lack of jurisdiction of a federal court touching the subject matter of the litigation cannot be waived by the parties, we must upon this appeal examine the contention; and, if we conclude that the District Court lacked jurisdiction of the cause, direct that the bill be dismissed. *United States* v. *Corrick*, 298 U. S. 435, 440. We at first thought that the District Court had jurisdiction, and ordered a reargument of the case on the merits. But, upon further consideration of the jurisdictional question, we are of opinion that the remedy provided by the Urgent Deficiencies Act is not applicable to this order.

First. The Railway Mail Pay Act, terminated the system theretofore prevailing of service under voluntary contracts.[2] As embodied in United States Code, Title 39, Sections 523 to 568, it provides in forty-six sections comprehensively for the character, means and methods of mail transportation; defines the authority of the Postmaster General; and describes the obligations of the railroads and their right to compensation, which is to be fixed by the Commission.

"The Interstate Commerce Commission is hereby empowered and directed to fix and determine from time to time the fair and reasonable rates and compensation for the transportation of such mail matter by railway common carriers and the services connected therewith, prescribing the method or methods by weight, or space, or both, or otherwise, for ascertaining such rate or compensation, and to publish the same, and orders so made and published shall continue in force until changed by the commission after due notice and hearing." (39 U. S. C. § 542.)

"For the purpose of determining and fixing rates or compensation hereunder the Commission is authorized to make such classification of carriers as may be just and reasonable and, where just and equitable, fix general rates applicable to all carriers in the same classification." (39 U. S. C. § 549.)

"At the conclusion of the hearing the Commission shall establish by order a fair, reasonable rate or compensation to be received, at such stated times as may be named in the order, for the transportation of mail matter and the service connected therewith, and during the continuance of the order the Postmaster General shall pay the carrier from the appropriation for inland transportation by railroad routes such rate or compensation." (39 U. S. C. § 551.)

Eleven sections of the act deal with the procedure on hearings before the Commission.[3] No provision is made for a judicial review.

[2] Prior to the Act of 1916, the carriage of mail by railroads—with the exception of some aided by land grant—was held to be not compulsory "at adequate compensation to be judicially determined", Atchison, Topeka & Santa Fe Ry. *v.* United States, 225 U. S. 640, 650, but under contracts voluntarily entered into with the Postmaster General. New York, New Haven & Hartford R. R. *v.* United States, 251 U. S. 123, 127. For the legislation prior to 1916 concerning compensation of railroads for carrying the mail, see Railway Mail Pay, 56 I. C. C. 1, 3-7. For the several proposals prior to 1916 to modify the laws governing such transportation, see Report of Postmaster General to Congress August 12, 1911, H. R. Doc. 105, 62d Congress, 1st Session; Senate Bill 7371, House Bill 23,721, 62d Congress, 2d Session; Railway Mail Pay, Report of Joint Committee on Compensation for the Transportation of the Mail, August 31, 1914, H. R. Doc. 1155, 63d Congress, 2d Session; Senate Bill 6405, House Bill 17042, 63d Congress, 2d Session; Senate Bill 4175, House Bill 10242, 64th Congress, 1st Session.

[3] Section 544 provides: "The procedure for the ascertainment of the rates and compensation shall be as provided in sections 545 to 554 of this title;"

But provision is made for administrative review by "re-examination" of an order.

"Either the Postmaster General or any such carrier may at any time after the lapse of six months from the entry of the order assailed apply for a re-examination and thereupon substantially similar proceedings shall be had with respect to the rate or rates for service covered by said application, provided said carrier or carriers have an interest therein." (39 U. S. C. § 553.)

There have been many administrative reviews by "re-examination."[4] The case at bar appears to be the only instance in which an attempt has been made to set aside a mail order by suit under the Urgent Deficiencies Act.

Second. The Urgent Deficiencies Act provides a method of judicial review of orders of the Interstate Commerce Commission possessing the following extraordinary features: (1) The original hearing in the district court is not before a single judge, but before three, of whom one must be a circuit judge; (2) From the decree of the district court as so constituted a direct appeal to the Supreme Court is granted as of right, instead of a review by a circuit court

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and § 554 provides: "For the purposes of Sections 524 to 568 of this title the Interstate Commerce Commission is hereby vested with all the powers which it is authorized by law to exercise in the investigation and ascertainment of the justness and reasonableness of freight, passenger, and express rates to be paid by private shippers."

[4] The first order fixing compensation for transportation of mail was made by the Commission December 23, 1919. Railway Mail Pay, 56 I. C. C. 1. By it rates were fixed on the general system of flat rates on a space basis, with higher rates for certain short lines less than 100 miles in length. Since then the Commission has made orders on applications for re-examination under 39 U. S. C. § 553, in many cases. Railway Mail Pay, New England Lines, 85 I. C. C. 157, on reargument, 95 I. C. C. 204, 104 I. C. C. 521; Railway Mail Pay, Certain Intermountain and Pacific Coast Short Line Railroads, 95 I. C. C. 493, on reargument, 104 I. C. C. 521; Railway Mail Pay, Woodstock Ry. Co. et al., 96 I. C. C. 43, on reargument, 104 I. C. C. 521; Railway Mail Pay, Canadian Nat. Ry. et al., 109 I. C. C. 13; Railway Mail Pay, Alabama, Tenn. & No. Ry., 112 I. C. C. 151; Railway Mail Pay, Certain Intermountain and Pacific Coast Short Line Railroads, 120 I. C. C. 439, on reconsideration, 151 I. C. C. 734; Railway Mail Pay, Winston-Salem Southbound Ry., 123 I. C. C. 33; Railway Mail Pay, 144 I. C. C. 675; Railway Mail Pay, 151 I. C. C. 734; Railway Mail Pay, Georgia & Florida R. R., 192 I. C. C. 779, on rehearing, 214 I. C. C. 66.

A number of other decisions relating to railway mail pay have also been made. Railway Mail Pay, Certain Short Lines, 165 I. C. C. 774; Railway Mail Pay, Jacksonville & H. R. R. et al., 174 I. C. C. 781; Railway Mail Pay, Illinois Terminal Co., 174 I. C. C. 796; Railway Mail Pay, Macon, D. & S. R. R. et al., 185 I. C. C. 715; Railway Mail Pay, N. J. & N. Y. R. R., 198 I. C. C. 504; Railway Mail Pay, Piedmont & No. Ry., 216 I. C. C. 467.

Similar orders have been entered under the Electric Railway Mail Pay Act, 40 Stat. 742, 748. Electric Railway Mail Pay, 58 I. C. C. 455; Electric Railway Mail Pay, 98 I. C. C. 737. Compare Transmission of Mail by Pneumatic Tubes in the City of New York, 85 I. C. C. 207.

of appeals; (3) Upon both the trial court and the Supreme Court rests the obligation to give the case precedence over others. These features were first introduced by the Expediting Act of 1903, 32 Stat. 823, for suits by the United States to enforce the antitrust and commerce laws. They were extended by the Hepburn Act of 1906, § 5, 34 Stat. 584, 590, 592, to suits to enforce or to set aside orders of the Interstate Commerce Commission. When that jurisdiction was vested in the Commerce Court provisions with like effect were provided for cases coming before it. 36 Stat. 539. To its jurisdiction the district court succeeded, with these features, under the Urgent Deficiencies Act.

In the opinion of Congress jurisdiction with the extraordinary features of the Urgent Deficiencies Act was justified by the character of the cases to which it applied—cases of public importance because of the widespread effect of the decisions thereof. In such cases Congress sought to guard against ill-considered action by a single judge and to avert the delays ordinarily incident to litigation. In construing the Act, this Court concluded that despite the broad language used in the Commerce Court Act, Congress could not have intended to include in this special jurisdiction suits to set aside every kind of order issued by the Commission. For substantially every decision, and every other kind of action by the Commission is expressed in, or is followed by, an order; and many of the orders are obviously not of such public importance and widespread effect as to justify, in cases affecting them, the extraordinary features of the Urgent Deficiencies Act.

The Commerce Court had (36 Stat. 539) jurisdiction "over all cases of the following kinds":

"First. All cases for the enforcement, otherwise than by adjudication and collection of a forfeiture or penalty or by infliction of criminal punishment, of any order of the Interstate Commerce Commission other than for the payment of money.

"Second. Cases brought to enjoin, set aside, annul or suspend in whole or in part any order of the Interstate Commerce Commission. . . ."

This Court concluded that, as the intent of Congress was "to relieve parties in whole or in part from the duty of obedience to orders which are found to be illegal", there was jurisdiction to set aside only those kinds of orders which there was jurisdiction to enforce; that a distinction must be drawn between "affirmative" and "negative" orders; and that jurisdiction under the Commerce

Court Act was applicable only to "affirmative" orders. *Proctor & Gamble Co.* v. *United States,* 225 U. S. 282; *Hooker* v. *Knapp,* 225 U. S. 302. Since the abolition of the Commerce Court, that rule has been consistently followed in cases brought under the Urgent Deficiencies Act. *Lehigh Valley R. R.* v. *United States,* 243 U. S. 412; *Piedmont & Northern Ry.* v. *United States,* 280 U. S. 469; *Standard Oil Co.* v. *United States,* 283 U. S. 235; *United States* v. *Corrick,* 298 U. S. 435. Compare *Delaware Hudson Co.* v. *United States,* 266 U. S. 438; *United States* v. *Los Angeles & Salt Lake R. R.,* 273 U. S. 299.

The order of February 4, 1936, here assailed, does not command either the Government or the Railroad to do anything. It is simply a refusal, upon a second "re-examination" of the order of July 11, 1928, further to increase the compensation thereby awarded upon a "re-examination" of the compensation originally awarded by the order made December 23, 1919. The order assailed, being a refusal to change the existing status, was a "negative" order. The District Court lacked jurisdiction to set it aside, and should have dismissed the bill.

Third. Congress cannot be assumed to have made the extraordinary remedy of the Urgent Deficiencies Act applicable for the determination of the validity of railway mail pay orders, even if "affirmative". The issue here is whether the existing mail revenue of $35,728 should be increased for the year by $31,227. There is no wide public interest in its speedy determination. There is no danger of temporarily interrupting the mail service through the improvident issue of an injunction by a single judge. Only the method or amount of payments currently to be made would be affected. Such orders are in character unlike those under the Boiler Inspection Act, 36 Stat. 913, as amended, 38 Stat. 1192, 43 Stat. 659, and the Inland Waterways Corporation Act, 43 Stat. 361, as amended, 45 Stat. 978, 48 Stat. 968, of which jurisdiction was taken although the statutes contained no provision for judicial review.[5]

In *Great Northern Ry.* v. *United States,* 277 U. S. 172, we held that there was not jurisdiction under the Urgent Deficiencies Act of a suit to set aside an order of the Interstate Commerce Commis-

[5] Baltimore & Ohio R. R. *v.* United States, 293 U. S. 454; United States *v.* Illinois Central Ry., 291 U. S. 457; compare Mississippi Valley Barge Line Co. *v.* United States, 292 U. S. 282.

sion made under Title II of the Transportation Act of 1920 determining the amount due a railroad on the Government's guaranty of income for the period following relinquishment of federal control. And in *United States* v. *Los Angeles & Salt Lake R. R.*, 273 U. S. 299, we held that there was not jurisdiction under the Urgent Deficiencies Act of a suit to set aside a final order under the Valuation Act, even though that statute was enacted as an amendment to the Interstate Commerce Act itself. 37 Stat. 701, as amended, 41 Stat. 456, 474, 493, 42 Stat. 624.[6]

In recent years the field of administrative determination has been widely extended; and the duty of making many of these determinations has been imposed upon the Interstate Commerce Commission.[7] Some of the statutes contain specific provision making applicable jurisdiction under the Urgent Deficiencies Act. This is true of the Emergency Railroad Transportation Act of 1933, 48 Stat. 211, 216, as amended, 49 Stat. 376, and of the Motor Carrier Act of ~~1933~~ 1935, 49 Stat. 543, 550. Compare Transportation of Explosives Act (Criminal Code, § 233), 35 Stat. 554, 555, as amended,

[6] Compare United States *v.* Illinois Central Ry., 244 U. S. 82; Delaware & Hudson Co. *v.* United States, 266 U. S. 438; United States *v.* Atlanta, B. & C. Ry., 282 U. S. 522.

[7] Among the statutes delegating to the Commission administrative duties in addition to those which it performs under the Interstate Commerce Act are: *Postal Service:* Railway Mail Pay Act, 39 Stat. 412, 425, 430; Electric Railway Mail Pay Act, 40 Stat. 742, 748; New York City Pneumatic Tube Mail Pay Act, 42 Stat. 652, 661; Fourth Class Mail Regulations Act, 43 Stat. 1053, 1067, as amended, 45 Stat. 940, 942; Air Mail Act, 48 Stat. 933, 935, as amended, 48 Stat. 1243, 49 Stat. 614. *Railroad Operation:* Safety Appliance Act, 27 Stat. 531, as amended, 32 Stat. 943, 36 Stat. 298; Boiler Inspection Act, 36 Stat. 913, 914, as amended, 38 Stat. 1192, 43 Stat. 659; Locomotive Ash Pan Act, 35 Stat. 476; Accident Investigation Act, 36 Stat. 350, 351; Hours of Service Act, 34 Stat. 1415; Railway Labor Act, 44 Stat. 577, as amended, 48 Stat. 1185, 49 Stat 1189; Transportation Act of 1920, Title II, 41 Stat. 456, 457, as amended, 44 Stat. 1450; Emergency Railroad Transportation Act of 1933, 48 Stat. 211, 216, as amended, 49 Stat. 376. *Railroad Finance:* Clayton Antitrust Act, 38 Stat. 730, 734, as amended, 43 Stat. 939, 48 Stat. 1102; Reconstruction Finance Corporation Act, 47 Stat. 711, as amended, 48 Stat. 20, 99, 120, 1109, 49 Stat. 1, 796, 50 Stat. 5, 357; Bankruptcy Act § 77, 47 Stat 1474, as amended, 49 Stat. 911, 1969. *Miscellaneous:* Transportation of Explosives Act (Criminal Code, § 233), 35 Stat. 554, 555, as amended, 35 Stat. 1088, 1135, 41 Stat. 1445; Standard Time Zone Act, 40 Stat. 450; St. Louis Bridge Act. 43 Stat. 7, 8; Inland Waterways Corporation Act, 43 Stat. 360, as amended, 45 Stat. 978, 48 Stat. 968, 49 Stat. 958; Radio Act of 1927, 44 Stat. 1162, 1173, superseded by 48 Stat. 1064; Motor Carrier Act of ~~1935~~ 1935, 49 Stat. 543, 550.

Although enacted as Part II of the Interstate Commerce Act, the Motor Carrier Act of ~~1935~~ 1935 is included in this list because it seems more properly classified as a complete and independent statute than as merely an amendment to the Act of 1887.

35 Stat. 1088, 1135, 41 Stat. 1445. It is true likewise of several statutes under which the determinations are to be made by other administrative tribunals. Shipping Act of 1916, 39 Stat. 728, 738, superseded by 49 Stat. 1985 (United States Shipping Board); Packers & Stockyards Act of 1921, 42 Stat. 159, 168 (Secretary of Agriculture); Perishable Agricultural Commodities Act of 1930, 46 Stat. 531, 535 (Secretary of Agriculture); Emergency Railroad Transportation Act of 1933, *supra* (Federal Coordinator of Transportation); Communications Act of 1934, 48 Stat. 1064, 1093, as amended, 50 Stat. 189 (Federal Communications Commission).[8] The orders for which review is provided by each of these statutes are like the orders under the Interstate Commerce Act fixing rates payable by shippers. Improper injunctive relief of such orders or delay in final determination of their validity may seriously affect the public interest by preventing or obstructing action under those statutes.

While the compensation fixed in a railway mail pay order is ordinarily measured by a rate, the ultimate question determined by the Commission is, as in the *Great Northern* case, the proper compensation to be paid by the Government to the railroad for services and the use of its property—the *quantum meruit* for carrying the mail. There is nothing in the history of the Railway Mail Pay Act which requires that the Urgent Deficiencies Act be made applicable to the determination of the validity of such orders.[9]

Fourth. The absence in the Railway Mail Pay Act of a provision for judicial review and the denial of jurisdiction under the Urgent

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[8] Compare Merchant Marine Act of 1936, 49 Stat. 1985, 1987 (United States Maritime Commission). A similar procedure has also been provided for certain suits to enjoin the enforcement or operation of state and federal statutes on the ground that they are unconstitutional. Judicial Code, § 266, 36 Stat. 557, 1162, as amended, 37 Stat. 1013, 43 Stat. 938; Judiciary Act of 1937, 50 Stat. 751, 752.

[9] The provision calling for the Interstate Commerce Commission to fix the rates at which the mail is to be carried was introduced in the Senate as an amendment to the bill by Senator Cummins of Iowa. In answer to questions as to "whether the amendment provides for an appeal in this case as in other rate-making cases before the Interstate Commerce Commission", he stated: "I think it would permit the same review. . . . There would be the same remedy precisely under my amendment for the railway companies that now exists in the case of the establishment of a rate for a private shipper. . . . It is provided for in just the same way the present law does." 53 Cong. Rec., 9694-95. No further reference to judicial review occurs in the debates on this provision in either House; and no reference to judicial review was made in the report of the Committee of either House, nor in that of the Conference Committee whose recommendations were adopted. See Sen. Rep. 459, H. R. Rep. 91, H. R. Rep. 981, 64th Cong., 1st Sess.

Deficiencies Act do not preclude every character of judicial review. If the Commission makes the appropriate finding of reasonable compensation but fails, because of an alleged error of law, to order payment of the full amount which the railroad believes is payable under the finding, the Court of Claims has jurisdiction of an action for the balance, as the claim asserted is one founded upon a law of Congress. *Missouri Pacific R. R.* v. *United States,* 271 U. S. 603. Compare *United States* v. *New York Central R. R.,* 279 U. S. 73, affirming 65 Ct. Cl. 115, 121.[10] And since railway mail service is compulsory, the Court of Claims would, under the general provisions of the Tucker Act, have jurisdiction also of an action for additional compensation if an order is confiscatory. *United States* v. *Great Falls Mfg. Co.,* 112 U. S. 645; *North American Transportation and Trading Co.* v. *United States,* 253 U. S. 330, 333; *Jacobs* v. *United States,* 290 U. S. 13, 16. Moreover, as district courts have jurisdiction of every suit at law or in equity "arising under the postal laws", 28 U. S. C., § 41 (6), suit would lie under their general jurisdiction if the Commission is alleged to have acted in excess of its authority, or otherwise illegally. Compare *Powell* v. *United States,* 300 U. S. 276, 288, 289. But a suit under the Urgent Deficiencies Act to set aside an order concerning mail pay is not primarily one against the Commission. Primarily, it is a suit against the United States.[11] And the United States can be sued only when authority so to do has been specifically conferred. The Railway Mail Pay Act does not confer that authority.

Decree reversed—with direction to the District Court to dismiss the bill without costs to either party.

Mr. Justice BLACK agrees with the result and fully with all of the opinion except paragraph *Fourth*.

Mr. Justice CARDOZO and Mr. Justice REED took no part in the consideration or decision of this case.

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[10] Other decisions of the Court of Claims under the Railway Mail Pay Act of 1916 are: Chicago & E. I. Ry. *v.* United States, 63 Ct. Cl. 585; Nevada County N. G. R. R. *v.* United States, 65 Ct. Cl. 327; Chicago & E. I. Ry. *v.* United States, 72 Ct. Cl. 407; Macon, D. & S. R. R. *v.* United States, 78 Ct. Cl. 251; 79 Ct. Cl. 298. Compare Pere Marquette Ry. *v.* United States, 59 Ct. Cl. 538; New Jersey & N. Y. R. R. *v.* United States, 80 Ct. Cl. 243.

[11] Compare Judicial Code § 211, 36 Stat. 542, 1150, as amended. 38 Stat 219, 28 U. S. C. § 48; Lambert Run Coal Co. *v.* Baltimore & Ohio R. R., 258 U. S. 377, 382.